



THE AMERICAN DEMOCRACY

A TEXT IN GOVERNMENT
FOR USE IN
HIGH SCHOOLS, ACADEMIES
AND NORMAL SCHOOLS

BY

S. E. FORMAN

Author of "ADVANCED AMERICAN HISTORY," "A HISTORY
OF THE UNITED STATES," "FIRST LESSONS
IN AMERICAN HISTORY," etc.

*The best laws, though sanctioned by every citizen of the State,
will be of no avail unless the young are trained by habit and
education in the spirit of the Constitution — ARISTOTLE*



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PREFACE

This text is based on my *Advanced Civics*, but the changes that have been made are so many and so far-reaching that it has been thought best to give the new book a new name.

The essential principles of our government are presented first. The student begins by learning of big things, of democracy, representative government, the separation of powers, constitutions, the federal system, local self-government, civil liberty. . These are the foundation stones of the Republic, and to present these great themes first is simply to lay the foundation aright.

In Part II is an account of the political superstructure, the governmental machine. Here the aim has been to give important subjects a broad and ample treatment, but there has been no effort to present a vast array of facts. You will not be able to carry young people very far along on the road to good citizenship by gorging their minds with facts about government. The way to improve citizenship is to establish in the mind correct political ideals and to reach the heart with the living truths of political morality.

Part III deals with the every day work of the government. The learner is brought face to face in a practical way with questions relating to international policies, national defense, taxation, currency, transportation, trusts, immigration, conservation, labor legislation, public utilities, the housing problem, rural betterment. These are subjects with which the voter must be conversant, and if they do not receive serious attention in the classroom our civics teaching will break down at a most important point: it will fail to prepare for intelligent voting.

We have in this country a precious heritage of liberty and

democracy and it is the prayer of every good American that this heritage be preserved. It will not be preserved unless our youth are led to understand it and taught to love it. So, throughout the book, the underlying purpose has been to teach the true meaning of America, to impart the American spirit. "The letter killeth but the spirit giveth life."

S. E. FORMAN.

Washington, D. C., 1920.

CONTENTS

PART I

THE ESSENTIAL PRINCIPLES OF THE AMERICAN GOVERNMENT:

THE SPIRIT

I

DEMOCRACY

	PAGE
Government	3
Types of Government	4
The United States a Democracy	4
Why Democracy is the Best Form of Government	5
Dangers of Popular Government	6
Democracy and the Individual	7

II

THE MASTERS OF GOVERNMENT

The Elective Franchise	10
Qualifications of a Voter	11
The Right of Suffrage Conferred by State Authority	12
Equal Suffrage	13
Duties of the American Voter	14

III

REPRESENTATIVE GOVERNMENT

Pure and Representative Democracy	17
Growth of Representative Government	18
The United States a Representative Democracy	18
Principles of Representation	19
Representation of the Minority	20
The People and their Representatives	21

IV

"CHECKS AND BALANCES"

	PAGE
How the Power of Government is Separated	24
Development of the Three-Department System	24
The Legislature	25
The Judiciary	27
The Executive	27
Independence of the Departments	28

V

CONSTITUTIONAL GOVERNMENT

Colonial Charters	31
Constitutions	31
How Constitutions Obtain Their Authority	33
Outline of a Typical Constitution	33
Amendments and Revision of Constitutions	34

VI

FEDERAL GOVERNMENT

Different Kinds of Political Unions	38
Complexity of the American Government	39
Beginnings of the American Union	39
Articles of Confederation	40
Weakness of the Confederation	41
Efforts to Strengthen the Confederation	42

VII

THE WORK OF THE FATHERS

The Constitution Framed and Ratified	46
Distribution of Powers	47
Implied and Resulting Powers of the Federal Government	50
Limitations of the Federal Government	51
How the Federal Constitution is Amended	51

VIII

THE STATE

Powers of the State	54
Conflict of Federal and State Authority	55
Interstate Relations	56
Preservation of the Federal System	59

CONTENTS

ix

IX

LOCAL GOVERNMENT

	PAGE
Division of the Powers of the State	62
Three Grades of Government	63
How Local Governments Receive Their Powers	64
Municipal Home Rule	66

X

PARTY GOVERNMENT

What Political Parties Are For	69
Origin of Political Parties in the United States	70
Political Parties of To-day	71
Political Parties and the Individual	73

XI

CIVIL LIBERTY

Civil Liberty Defined	76
Growth of American Civil Liberty	76
Constitutional Liberty and Its Preservation	82

XII

CIVIL RIGHTS AND DUTIES

Civil Rights and Political Rights	85
Who are Citizens?	85
Civil Rights of State Citizenship	86
Civil Rights of Federal Citizenship	88
Duties of Citizenship	89

XIII

A REVIEW

The Characteristic Features of American Government	91
The American Spirit	92

CONTENTS

PART II

ORGANIZATION OF THE AMERICAN GOVERNMENT
THE FORM

XIV

THE ORGANIZATION OF CONGRESS

	PAGE
Introductory	97
Representation in Congress	98
Apportionment of Representatives	101
Election of Representatives	102
Election of Senators	102
Powers of Congress	103
Congress the Hope of the Nation	104

XV

CONGRESS AT WORK

Assembling of Congress and Its Adjournment	108
How Congresses are Numbered; Sessions of Congress	108
The House at Work	110
The Senate at Work	115

XVI

THE PRESIDENCY

Election of the President	118
Powers and Duties of the President	120
The President's Share in Law-Making	120
Succession to the Presidency	122
The President as a Political Personality	123

XVII

THE FEDERAL EXECUTIVE DEPARTMENTS

The Executive Civil Service	125
The Cabinet	126
Organization of the Departments	128

XVIII

THE FEDERAL JUDICIARY

Explanation of Terms	133
Independence of the Federal Judiciary	133

CONTENTS

xi

	PAGE
Organization of the Federal Courts	134
The Supreme Court and the Constitution	136
The Supreme Court and the People	139
Federal Courts Outside the Federal System	140
Officers of the Federal Courts	140

XIX

TERRITORIES AND DEPENDENCIES

How Territories and Dependencies are Governed	143
Territories and Dependencies on the American Continent	144
Insular Territories and Dependencies	148
Attitude of the United States Toward Its Dependencies	151

XX

THE STATE LEGISLATURE

General Features of State Legislatures	153
Passage of Bills	153
Importance of State Legislation	155
The State Legislature and the State Constitution	156
Direct Legislation; Initiative and Referendum	157

XXI

THE STATE EXECUTIVE

Decentralization of Executive Power in the State	162
Chief State Executive Officers	163
Other Executive and Administrative Officers	166
Consolidation of State Administrative Offices	168
Removal of State Officers	168

XXII

THE STATE JUDICIARY

Selection of the State Judiciary	173
The Several Grades of State Courts	173
Probate, County, and Chancery Courts	177
Relation of the State Judiciary to the Federal Judiciary	177
Powers of the State Judiciary	178

XXIII

THE COUNTY

Importance of County Government	181
The Three Types of County Government	181

	PAGE
The Governing Body of the County	183
Court Officials of a County	184
Other County Officials	185
County Home Rule	186
The Citizen and His County	186

XXIV

THE TOWNSHIP

The Two Types of the County-Township System	189
Powers of the Township	192
Organization of the Township	193
The Township a School for Good Citizenship	193

XXV

THE TOWN

Origin and Character of the Early New England Town	196
The Town-Meeting	198
Town Officers	199
The Town as a Factor in the Civic Life of New England	200
Town Government Outside of New England	201

XXVI

MUNICIPALITIES

Necessity for Municipal Organization	203
Two Classes of Municipalities	204
Villages, Boroughs, Towns	204
Organization of Cities	206
Honesty and Vigilance the Price of Good City Government	214

XXVII

PARTY ORGANIZATION

Nomination of Candidates	217
Permanent Party Organization	217
Primaries	218
Direct Nominations	220
The Convention System	221
Presidential Campaign	221

CONTENTS

xiii

PART III

THE FUNCTIONS OF THE AMERICAN GOVERNMENT

ITS SERVICES

XXVIII

THE FUNCTIONS OF GOVERNMENT

	PAGE
Scope of Governmental Activity	227
Government and the Individual	228
Individualists; Socialists	230

XXIX

LAWS

What a Law Is; Different Kinds of Law	233
Some of the Characteristic Features of Law	234
Law-Making and Public Opinion	235
Obedience to Law	237

XXX

JUSTICE

Administration of Justice the Highest Function of Government	240
Fundamentals of American Justice	240
A Needed Reform in the Administration of Justice	244
"Fiat Justitia"	246

XXXI

DEFENSE

Defense an Indispensable Function of Government	248
National Defense	248
State Defense	252
Local Defense	252
Civil Government and Martial Law	253

XXXII

INTERNATIONAL RELATIONS

International Affairs Regulated by the Federal Government .	255
International Law	255
Ambassadors and Ministers	257

	PAGE
Consuls	258
The President the Head of Foreign Affairs	259
Treaties	259
Arbitration	261
The Peace Treaties	262
The League of Nations	262

XXXIII

TAXATION

Cost of Government	266
Taxation Defined	266
Principles upon Which Taxes are Levied	267
Different Kinds of Taxes	267
Reforms in Taxation	269

XXXIV

NATIONAL FINANCE

Extent of the Federal Taxing Power	273
Preparing the National Tax Bill	274
Sources of the National Revenue	275
Collection of the National Revenue	277
National Expenditures	277
Shall We Have a National Budget?	278

XXXV

STATE FINANCE

Taxing Power of the State	282
Authority for State and Local Expenditures	282
Taxation in the State	284
State and City Budgets	288

XXXVI

PUBLIC DEBT

Public Debt a Necessity	291
How a Government Borrows Money	291
National Debt	292
State Debt	293
Debts of Local Governments	294
How Public Debts are Paid	296

CONTENTS

xv

XXXVII

MONEY

	PAGE
Money as a Commodity	299
The Precious Metals	300
Coinage of Money	301
Paper Money	301
Representative Money	303
Rivalry of Gold and Silver; Gresham's Law	303

XXXVIII

THE CURRENCY OF THE UNITED STATES

Different Kinds of Currency	307
Gold Coin and Gold Certificates; Silver Dollars and Silver Cer- tificates	307
Subsidiary Coinage	308
United States Notes (Greenbacks)	308
National Bank Notes	310
Federal Reserve Notes. Federal Reserve Bank Notes	311
Essential Facts of Our Monetary System	313

XXXIX

FOREIGN COMMERCE

Power of Congress Over Foreign Commerce	315
The Tariff; Free Trade and Protection	316
Tariff Legislation	317
The Tariff Commission	318
Regulations of Foreign Shipping	318
Foreign Commerce Assisted by the Federal Government	319

XL

THE STRANGER WITHIN OUR GATES

Extent and Character of the Immigrant Population	321
Restrictions Upon Immigration	322
Benefits of Immigration	324
Naturalization	325
Americanization	326

XLI

TRANSPORTATION

	PAGE
Interstate and Intrastate Commerce	329
Highways	330
Railroads	333
The Interstate Commerce Commission	334
Transportation Act of 1920	335

XLII

CORPORATIONS

The Corporation in Modern Life	339
How Corporations are Created and Controlled	339
Growth of the Trusts	340
Advantages and Disadvantages of Trusts	342
The Federal Government and the Trusts	343
State Governments and the Trusts	345
The Trust Problem	346

XLIII

CONSERVATION

Meaning of Conservation	348
Scope of Conservation	348
Conservation of the Soil	349
Conservation Through Reclamation	350
Forest Conservation	352
Conservation of Water Power	353
Some of the Practical Benefits of Conservation	355

XLIV

ELECTIONS

Usefulness of Frequent Elections	358
Elections Conducted by State Authority	359
Registration	359
The Casting and Counting of the Ballots	359
Protecting the Ballot-Box from Corrupt Practices	360
Bribery	362

CONTENTS

xvii

XLV

EDUCATION

	PAGE
Democracy and the Public School System	365
Public Education Controlled by the State	365
Education a Local Affair	366
The School District	367
School Supervision	367
Common Schools, High Schools, Universities, and Normal Schools	368
Educational Activities of the Federal Government	368
Educational Reform	370

XLVI

LABOR

Growth of Labor Organizations	373
Aims of Labor Organizations	375
The State and the Workingman	375
Collective Bargaining	376
Settlement of Labor Disputes	377
A Difficult Labor Problem	378
The Federal Government and the Workingman	380

XLVII

THE LAWS AND THE WORKINGMAN

The Police Power	383
The Laborer is Worthy of his Hire	384
"Eight Hours for Work; Eight Hours for Rest; Eight Hours for What You Will"	385
Unemployment	386
Insurance Against Accidents	387
Child-Labor Laws	389

XLVIII

HEALTH, SAFETY, AND MORALITY

A Word More About the Police Power	392
Public Health	393
The Federal Government and the Public Health	393
Public Safety	394
Public Morality	395
Prohibition	395

XLIX

HELPING THE POOR

	PAGE
The Poor We Have Always With Us	398
Care of the Poor a Function of Local Government	398
Outdoor and Indoor Relief	399
The Defective Classes	400
State Boards of Charities	400
Mothers' Pensions; Old Age Pensions	401
Organized Charity	402

L

CRIME

Definition of Crime	405
Punishment of Crime	406
Crime and the State Government	406
Crime and the Federal Government	408
Prevention of Crime and Treatment of Criminals	409

LI

URBAN AMERICA

Growth of Cities and Extension of Municipal Functions	413
The Problem of Public Utilities	414
The Housing Problem	417
City Planning	419
Municipal Recreation	420
Community or Civic Center	421

LII

RURAL AMERICA

Decline of the Rural Population	424
Conditions of Rural Life	425
The Federal Government and the Farmer	426
The State Government and the Farmer	429
The Local Government and the Farmer	430
Farmers' Associations	432

LIST OF ILLUSTRATIONS

The power of government	<i>Frontispiece</i>
The growth of democracy in America	PAGE 11
America's greatest representative body	20
The growth of the Constitution	43
The distribution of powers	49
The act which admitted the first new state	57
Fac-simile of part of the Declaration of Independence	81
Map of Pennsylvania showing Congressional Districts	99
A chart showing at a glance the relative strength of each state in the national House of Representatives	111
Organization of state administration	169
Map of a county, showing townships and villages	191
Council plan of Chicago	205
Commission plan of Des Moines	209
City manager plan of Dayton	213
A sample ballot for direct nomination of officers	219
Portion of a treaty between France and United States showing seals and signatures	260
The Committee on Ways and Means	274
Chart showing division of currency	309
Where the foreigners come from	323
Map showing the state highway system of California	332
Principal irrigation projects in the Western United States	351
A sample ballot for a general election	360
In the McKinley Manual Training School, Washington, D. C.	390
The New York Public Library	415
Trade communities	432



PART I

ESSENTIAL PRINCIPLES OF THE
AMERICAN GOVERNMENT

The Spirit

THE AMERICAN DEMOCRACY

PART I

I

DEMOCRACY

The study of Civics is in the main a study of government, an inquiry into the workings of a political machine. The most important question that can be asked about a government relates to its power: From what source does government in America receive its compelling force? The answer to this question involves the discussion of the greatest and noblest of all political themes—*democracy*.

Government. If man could live separate from all of his kind his freedom would be perfect; his conduct would depend entirely upon his own will and desires. But he can not live thus. He must live in society, and in the social relation he must do things that he does not wish to do, and he must refrain from doing things that he wishes to do. Wild, unrestrained freedom would destroy the peace and safety of the social group. In every society, therefore, there are rules (laws) to be obeyed and rulers to enforce the rules. The authority that imposes rules upon the conduct of men and punishes those who disobey is government.

The word *government* is derived from a Latin word (*gubernare*) which means to *guide* or *steer* or *pilot a ship*. The idea of piloting or guiding clings to the word *government* in all its uses. We may say, with exactness of language, that government pilots society safely through the sea of man's passions and cruelty and selfishness. The manifold services of government will receive attention in another

place (p. 227). Here it is enough to say that government lays its hands upon us in our infancy and is a guiding and controlling force all our lives. If it is wise and just and efficient, it is an instrument of happiness; if it is foolish or tyrannical or incapable, it is an agency of misery. Our interest, therefore, in securing and maintaining a good government is direct and permanent.

Types of Government. What kind of government shall a people have? What powers shall it exercise? Who shall be the rulers, and by what authority shall they rule? Questions like these arose ages and ages ago at the earliest period of human association. After experimenting for many thousands of years, trying now this form of government, now that, here oppressed by cruel masters, there breathing the air of freedom, the people of the earth at last found themselves living under absolute monarchies, limited monarchies, or republics. In an *absolute monarchy* they were governed by one person, the monarch, whose will was unfettered and supreme. In the *limited monarchy* the monarch shared political power with a law-making body chosen by the people. In the *republic* all political power flowed, directly or indirectly, from the people themselves. These three types of government, evolved from the long and ample experience of the past, are the prevailing types of the present day.

The United States a Democracy. In America the people have chosen the republic as their form of government, or, rather, they have chosen to establish a democracy; for between a republic and a democracy there is no essential difference. And what is a democracy? It is a popular government; a government that receives its powers directly from the people; "a government of the people, for the people, and by the people."

In the United States the hand of the people is seen in every department of public affairs. The President of the United States, the Congress, and the national Supreme

Court all receive their powers from the Constitution of the United States, and this Constitution is a creation of the people (1)¹ of the United States; the government of a State² receives its powers from the people of the State; a city or a town or a county is governed by the people who reside within its borders. Thus in the United States the will of the people prevails not only in the country taken as a whole, but in all its parts as well. This is the fundamental principle of the American government.

The people govern by a political device known as *majority rule*. When a question of government is to be decided, or when an officer of the government is to be chosen, an orderly vote is taken, and the will of the majority is regarded as the will of all. The majority rules, and the minority submits to the will of the majority. This is a necessary and unavoidable feature of democratic government. The minority, right or wrong, must bow to the will of the majority. If the cause of the minority, however, is just, it may be promoted, and in good time the minority may become a majority. A righteous and aggressive minority will not suffer permanent defeat.

Why Democracy Is the Best Form of Government. What are the reasons that urged the people to undertake the dangerous and difficult task of governing themselves? There are three coercive reasons why popular government should be maintained:

(1) The people are the best guardians of their own liberties and interests. Government *by* is government *for*. Government by a king will be conducted in the interest of the royal family; government by an aristocracy will be administered for the benefit of a small class; government by all will aim to promote the welfare and protect the rights of all.

¹ The numbers in heavy-faced type refer to passages in the Constitution of the United States (Appendix A), which are distinguished by corresponding numbers on the margin.

² In this treatise, when the word *state* begins with a capital letter one of the members of the American Union is meant.

(2) Democracy is best for the individual. Participation in government adds to the interest of life, sharpens the intellect, broadens the sympathies, cultivates a civic conscience, and thus enriches and elevates individual character.

(3) Popular government develops the highest type of patriotism. Citizens of a democracy always spring quickly to the defense of their government, for it is a work of their own hands. Subjects of monarchies, on the other hand, have been known to be driven into battle by the lash. Popular government has had its fullest development, perhaps, in Switzerland, and the Swiss are the most patriotic people in the world.

Dangers of Popular Government. We are sometimes taught to regard democracy as something divine. We are told that the voice of the people is the voice of God. We should cherish the principle of democracy and resist every attempt to undermine it or sap its strength, but we need not regard it as a divine institution. It is simply one of the forms of government. It is that form in which the people rule by the device of voting and abiding by the will of the majority; that is all. Democracy is a human institution, and like all human institutions it is beset by dangers. Three of these dangers are inherent and must be pointed out:

(1) *Indifference.* It is extremely easy to forget and neglect civic duty. It is next to impossible to keep the attention fixed constantly upon public affairs. Yet the success of popular government requires that the citizen's interest in public affairs be sustained, and that his watchfulness shall never be relaxed. Eternal vigilance is the price of democracy as well as of many other good things. A people who are habitually indifferent to the affairs of government are not fit to rule themselves.

(2) *The Demagogue.* A demagogue is a leader who seeks to gain political power for his own selfish purposes, and not for his country's good. The demagogue flatters

the people and confirms them in their prejudices and wrong thinking and, if necessary, lies to them. He would rather lead the people to their destruction than fail in his designs. We must always have leaders, and as long as there are men who prefer their private gain to the public welfare, so long will the false leader, the demagogue, be with us. We ought, therefore, to keep a sharp lookout for this arch-enemy of democracy and deal him a blow whenever he shows his baleful head.

(3) *Tyranny*. We are accustomed to associate the idea of tyranny with kings; but what is tyranny? It is an exercise of power without regard to justice; it is an exercise of brute force. Now, if the majority ruthlessly trample upon the rights of the minority, the minority feels the tyranny as keenly as if it were inflicted by a despot. Tyranny in popular government is worse than the tyranny of monarchies. A tyrannical king can be overthrown, but when a majority is tyrannical its tyranny cannot be successfully resisted.

The danger of tyranny in popular government will be avoided if the majority will remember justice and right. But justice and right are not always identical with the popular will. "To say that the will of the majority makes a thing right or wrong is a palpable absurdity. Right and wrong are what they are by their own nature. They can as little be made by man as can the properties of the triangle. No man, no number of men, can do more than declare them. The will of the majority ought to prevail if it is in accordance with right. For the sole ought is an ethical ought." (W. S. Lilly.)

Democracy and the Individual. We learn in physics that a body acted upon by a number of forces applied from different directions yields something to each force and moves in a line that is the resultant of all the forces. So it is in the political world. In a democracy a number of wills exert themselves upon government to make it go this way

and that; it yields something to each and moves in a direction that is the resultant of all the wills. Plainly, then, the responsibility for the course of public affairs must be sought in the doings of individuals. Just as one's personal conduct affects the government of the home for good or for evil, or the government of the school for good or for evil, so does personal conduct affect the larger civil government for good or for evil. This is another way of saying that good government begins with one's self, not with one's neighbor. When I grasp the idea of personal responsibility in political matters, when I understand that the greatest contribution I can make to the cause of good government is to order my own political actions aright, I am beginning to understand the duty that rests upon me as a citizen of a democracy. The first fact of a democracy is the power of the people; the first fact of citizenship in a democracy is the civic responsibility of the individual.

QUESTIONS ON THE TEXT

1. What is government, and why has it been established?
2. Name three prevailing types of government, and define each.
3. What is a democracy? Why may we call the United States a democracy?
4. What is meant by majority rule?
5. Give three good reasons why popular government should be maintained.
6. Point out three of the great dangers of democracy.
7. How can it be shown that responsibility for good government rests upon the individual?

SUGGESTIVE QUESTIONS AND EXERCISES

1. Can society exist without government?
2. Which is better, self-government or good government?
3. "The people have the right to their own mistakes." Discuss this statement.
4. Why should Civics be taught in the public schools?
5. Which is worse, *anarchy* or *despotism*?
6. What is an *aristocracy*? an *oligarchy*? a *plutocracy*? an *ochlocracy*?
7. What notable gains have been made by democracy in recent years?
8. Suppose this school was organized as a democracy: would the will of the majority be expressed in favor of order and industry?

Would any demagogues be likely to make their appearance? Would the minority acquiesce in the will of the majority?

9. What is meant by the expression "making the world safe for democracy"? What is meant by the expression "making democracy safe for the world"?

10. Classify the sovereign governments of the earth as absolute monarchies, limited monarchies, and republics. In which class do we find the greatest number of people? In which class is the highest grade of civilization?

11. Among the services that government performs for society are the following: (1) It keeps the streets and roads in repair; (2) it supports the schools; (3) it administers justice between man and man; (4) it carries the mails; (5) it protects life and property; (6) it preserves the liberty of citizens; (7) it regulates the possession and transfer and descent of property; (8) it defends the nation against attack; (9) it protects the public health; (10) it helps the poor and unfortunate. Arrange these services in the order of their importance, placing the most important service first. Be prepared to give reasons for your arrangement.

12. In former times it was said that the voice of the King was the voice of God; in these times it is sometimes said that the voice of the people is the voice of God. In which statement is there more truth?

TOPICS FOR SPECIAL WORK

1. The Perils of Democracy: Abbott,¹ 279-301.
2. Majority Rule: Dole, 161-173.
3. The Meaning of Self-Government: Kaye, 15-21.
4. Ideals of Democracy: Cleveland and Schafer, 25-47.
5. The Underlying Concepts of Democracy: Cleveland and Schafer, 48-68.

¹For the full name of the authors and the full title of the book see the Reading List (Appendix B), where the names of the authors are arranged in alphabetical order.

II

THE MASTERS OF GOVERNMENT

When it is said that in a democracy the people are the rulers, it should of course be understood that only a portion of the people is meant. For plainly there are large classes of persons—little children, for example, and defectives—who could take no part in public affairs without doing great harm. Democracy, therefore, means not the rule of *all* the people, but the rule of the *political people*. Who are these political people? Who are the masters of government in the United States?

The Elective Franchise. Since it is impossible for *everybody* to participate in the management of public affairs, it has been found necessary to grant the suffrage—that is, the elective franchise, or the privilege of voting—to some classes of persons and to withhold it from other classes. The portion of the population to whom the elective franchise is given is known as the *electorate*. Inasmuch as democracy has always been a powerful and persistent force in America, the electorate has from the beginning of our history consisted of a considerable portion of the population. Even before the Revolution, large numbers of people in every colony participated in government, and when independence was declared it was proclaimed in the name of the people. The political people, however, at the time of the Revolution did not constitute a very large portion of the adult population. But democracy in the nineteenth century made wonderful strides and the electorate assumed larger and larger proportions. By 1840 it included all white male adults, and by 1870 it included black male adults as well. Democracy continued to gain strength, with the result that by 1920 the American electorate, now including women as well as men, had become a stupendous governing body consisting of more than 25,000,000 persons.



1790



1840



1870



1920

THE GROWTH OF DEMOCRACY IN AMERICA

(If the entire circle is taken as representing the whole population of voting age, male and female, foreign and native, the shaded segment represents the portion of such population entitled to vote.)

Qualifications of a Voter. Who are admitted to the electorate and who are excluded from it? To whom is the suffrage granted? The right to vote is a franchise or privilege granted to such citizens as are deemed worthy of possessing it. In colonial times the underlying idea was that

it was not a man's education, or his nationality, or his age, or his character that entitled him to vote, but his property, and in most of the colonies the property had to be land. After the Revolution, however, the property qualification was gradually removed. At the present time the qualifications for voting relate chiefly to age, residence, citizenship, education, mental or moral condition, and sex.

In all the States the age qualification for voting is twenty-one years; in all the States a previous residence within the State varying from six months to two years is required; in all the States a voter must be a citizen of the United States, or he must have declared his intention of becoming a citizen; in nearly one third of the States a person who can not read or write is denied the privilege of voting; in nearly all of the States certain classes of abnormal persons, such as lunatics, idiots, and criminals, are excluded from the privilege of voting; in nearly half the States women may not vote at all elections.

The Right of Suffrage Conferred by State Authority.

Authority for granting the suffrage and defining the qualifications of voters resides chiefly in the State. The only restriction upon the power of the State to regulate the elective franchise is found in the fifteenth amendment to the Constitution, where it is declared that the right of citizens of the United States to vote shall not be abridged by any State on account of race, color, or previous condition of servitude (159). As long as the State does not violate this amendment, it is free to regulate the suffrage in its own way. It may even grant the elective franchise to aliens. If the State should violate the fifteenth amendment it is difficult to say what would be done. It would seem that the State's representation in Congress would be decreased; for when the right to vote at any election for President or Vice-President, or for Representatives in Congress, is denied to any of the male adult citizens of a

State other than criminals, the basis of the State's representation in Congress may be reduced in the proportion that the number of disfranchised citizens bears to the whole number of male adults in the State (154). According to this rule, if a State with twelve Representatives in Congress should disfranchise one third of the male adult citizens, it would lose four of these Representatives. Its basis of representation, however, would not be reduced without action on the part of Congress (158).

Equal Suffrage. The most significant political reform of recent times has consisted in extending the suffrage to women on equal terms with men. In the later years of the nineteenth century the movement on behalf of equal suffrage resulted in securing the votes for women in Wyoming, Colorado, Utah, and Idaho. Women were now going out into the industrial world, working and struggling as men worked and struggled. The conditions that forced them into the industrial world had a tendency to force them into the political world. Accordingly, in the opening years of the twentieth century they entered upon a campaign demanding political rights with an insistence never before shown. Their efforts were rewarded with victory after victory. Before the second decade of the century had come to an end the elective franchise had been granted to women in half the States, and the cause of equal suffrage had been so far advanced that it seemed only a question of months when a constitutional amendment would be adopted giving women the right to vote throughout the length and breadth of the land.

Wherever women have the *right* to vote it is their *duty* to vote. A woman may not believe in equal suffrage; she may regret that the franchise has been given to her sex: but this makes no difference; her belief and her feelings will not suffice to absolve her. Equal suffrage has come to stay, and with it has come a new duty for women. Democ-

racy is a cause that is fought for chiefly with ballots, and if women are to do their part in upholding the cause they must be present at the polls on election day.

The evidence shows that women may be relied upon to do their part. Where equal suffrage has been established it has justified itself. "I do not know," says a Senator from an equal suffrage State, "one man who regards suffrage as anything else than good. We feel that the votes of our women is valuable to us in many ways, and I believe that fully ninety per cent. of them vote. Their influence has compelled both parties to put up good men as candidates." Where women have the suffrage their efforts in political matters are directed largely toward the affairs of the home and the school and toward the accomplishment of social and industrial reforms, the very field of reform in which so much is to be done and in which the influence of women is most needed.

Duties of the American Voter. The American voter has been called an "uncrowned king." He is certainly an officer of government, for he is a member of the electorate, or the governing body, which consists of all the voters, and which possesses supreme political power, controlling all the governments, federal and State and local. When, therefore, the voter enters the polling-booth and presumes to participate in the business of government, he assumes serious responsibilities. What are the duties of a voter in a self-governing country? If an intelligent man will ask himself this question and refer it to his conscience, as well as deliberate upon it in his mind, he will conclude that he ought at least to do the following things:

- (1) To vote whenever it is his privilege.
- (2) To try to understand the questions upon which he votes.
- (3) To learn something about the character and fitness of the men for whom he votes.
- (4) To vote only for honest men or honest women.

- (5) To support only honest measures.
- (6) To give no bribe, direct or indirect; and to receive no bribe, direct or indirect.
- (7) To place country above party.
- (8) To recognize the result of the election as the will of the people and therefore as the law.

QUESTIONS ON THE TEXT

1. From whom is the elective franchise withheld? Give an account of the growth of the American electorate.
2. State the qualifications usually required for voting.
3. By what authority is the suffrage granted? What restrictions are placed on the State in the matter of granting the suffrage?
4. Give a brief account of the movement for equal suffrage. Why should women vote? To what extent are women attending to their political duties?
5. Enumerate the duties of a voter.

SUGGESTIVE QUESTIONS AND EXERCISES

- ①. Get a copy of the constitution of your State and examine it for answers to the following questions: (1) What is the qualification of voters as to age? as to residence—(a) in the State? (b) in the county? (c) in the election district? as to sex? as to education? as to the payment of any tax? as to citizenship? Can an alien vote in this State? (2) What special immunities have voters on election day? (3) Are absentees allowed to vote? (4) What persons are disqualified for voting?
- ②. Are the qualifications and disqualifications thus mentioned in the State constitution all just and proper? If not, state what changes you would like to have made.
- ③. After careful thought state the arguments for and against an educational qualification for voters; for and against compulsory voting.
- ④. Give the meaning of the following words: *elector*, *resident*, *inhabitant*, *denizen*, *alien*, *citizen*, *subject*.
- ⑤. In Massachusetts voting may by an act of the legislature be made compulsory. Would you vote for or against a bill that compelled citizens to vote?
- ⑥. Of the duties of the voter mentioned in the last section of this chapter which is the easiest to fulfil? which the hardest? which is the most important?
- ⑦. It has been proposed that before a person is allowed to vote he should be required to pass an examination in the subjects of History and Civics. Would this be a wise regulation?
- ⑧. When you become of age do you intend to vote? What personal advantage may you reap from voting? State the losses that

society would sustain if you should be deprived of your vote. Are you now qualified to cast an intelligent vote?

9. Discuss the subject of equal suffrage from the standpoint (a) of justice; (b) of women's fitness for voting; (c) of the effect upon politics; (d) of the effect upon social conditions.

TOPICS FOR SPECIAL WORK

1. The Extension of Democracy: Dole, 87-102.
2. Political Rights: Abbott, 62-103.
3. The Education of Voters: Kaye, 118-126.
4. Women and the Suffrage: Jones, 232-236.
5. The Responsibility of the Voter: Kaye, 126-128.

III

REPRESENTATIVE GOVERNMENT

The electorate of a nation, or of a State, or even of a good-sized city, is of course vastly too large to assemble at one place and make known its will. How, then, can the voting population have a voice in the making of a law, or take part in the management of public affairs? The answer to this question leads to the consideration of the highly important subject of *representative government*.

Pure and Representative Democracy. When the business of government is transacted by the direct action of the entire electorate we have a perfect or pure democracy. In ancient Greece, where the states were very small, pure democracy was often practicable. For example, when Attica wished to take action upon an important question, all her citizens—her carpenters, weavers, shoemakers, merchants, lawyers, poets, generals, philosophers—assembled in the *agora*, or market-place, discussed the question, and voted upon it. The citizens of Attica numbered hardly more than ten thousand. They could therefore conveniently govern themselves as a pure democracy. But the will of a nation consisting of millions of people can not be ascertained in this way, for the reason that the whole body of citizens can not meet together at one place. Accordingly, there has been evolved a representative democracy with a representative government.

A representative government is a popular government in which power is exercised by chosen agents (representatives) of the people, instead of being exercised directly by the people themselves assembled as a single body. A country that is governed by representatives elected by the people is a representative democracy or republic. In a representative democracy the people rule no less than in a pure democracy, but they rule indirectly.

Growth of Representative Government. The first lessons in representative government were taught by England. When the Anglo-Saxons invaded Britain (449 A. D.) they settled in villages. Soon they united the villages into larger political associations, known as *hundreds*. This union was effected in the following way: In each village four discreet men were chosen to attend the *hundred moot*, or meeting-place of the hundred, where they met other discreet men from the other villages of the hundred. The four men sent to the hundred moot spoke and voted for the village whence they came. "Their voice was its voice, their doings its doings, their pledge its pledge." At the hundred moot were done only those things that the village could not do for itself. Strife between village and village was allayed; appeals were heard; judgment in the weightier cases of law was rendered. All matters that were purely local were still in the hands of the little home government, the village moot. The central authority did not destroy local self-government.

The union of villages under the government of the hundred pointed the way to the formation of larger unions. The villages also sent their representatives to a *shire moot*, where public business was transacted in the name of the shire, the parent of the modern county. The organization of the shire moot was the model for a national moot, and in 1265 the nation, through its representatives, met in a council at Westminster, two representatives from each shire attending. Thirty years later, in addition to the two representatives of the shire, two citizens from each city and two burgesses from each borough were elected to the national council. This council, consisting of representatives of the whole body of the English people, was the first English Parliament.

The United States a Representative Democracy. In America the representative feature in government has been in operation from the very beginning. In 1619 Virginia

had the honor of electing the first representative body that ever met in the New World. In New England the local governments were conducted as pure democracies, but in matters of general concern the people acted through their representatives. Throughout the colonial period to govern through representatives seemed to Americans the only natural way of conducting public affairs. Independence was declared by representatives of the colonies, and the Constitution was framed by representatives of the States (130). Thus our nation began its existence as a representative democracy. Generally speaking, government in the United States is representative in all its grades and in all its branches. Our legislatures, our President, our governors, our mayors, and in most instances our judges, are chosen agents of the people.

Principles of Representation. What principles shall govern in the choice of representatives? Shall a representative act for a class, for an interest, for a locality, or for all the people who elect him? How shall representatives be apportioned? For how long a time shall a representative retain his power? These questions have given rise to many political battles, and have led to many political experiments. In the English Parliament for a long time manufacturing interests were represented by members from the boroughs and cities, farming interests were represented by members from the shires, church interests by the bishops, educational interests by members from the universities, the noble classes by the lords. In other words, Parliament represented only classes and interests. With the rise of democracy in the nineteenth century the system of government by classes and interests broke down in England and elsewhere, and an officer of government began to be regarded as a representative of all the people.

For the law-making branch of government the principle of representation according to number was adopted: so many people, so many representatives. In order that the

people might have an opportunity of choosing new agents and instituting new policies of government, the term of the representative was limited to a fixed period of time. Another rule that was quite generally observed was this: the voters chose as a representative one who resided within the district in which the vote was taken. These principles of representation are applied to a greater or less extent in all countries that enjoy free government. In the United States they are applied with great fidelity in all the grades of government, in township and county and city and State and nation. The principles are five in number, and may be stated as follows:

1. A representative is chosen from a certain district—a ward, a county, a Congressional district, a State—and he usually must be a resident of the district that he represents.

2. In the choice of representatives the principle of majority rule prevails; but if there are more than two candidates for an office, the candidate having a plurality of votes is usually declared elected.

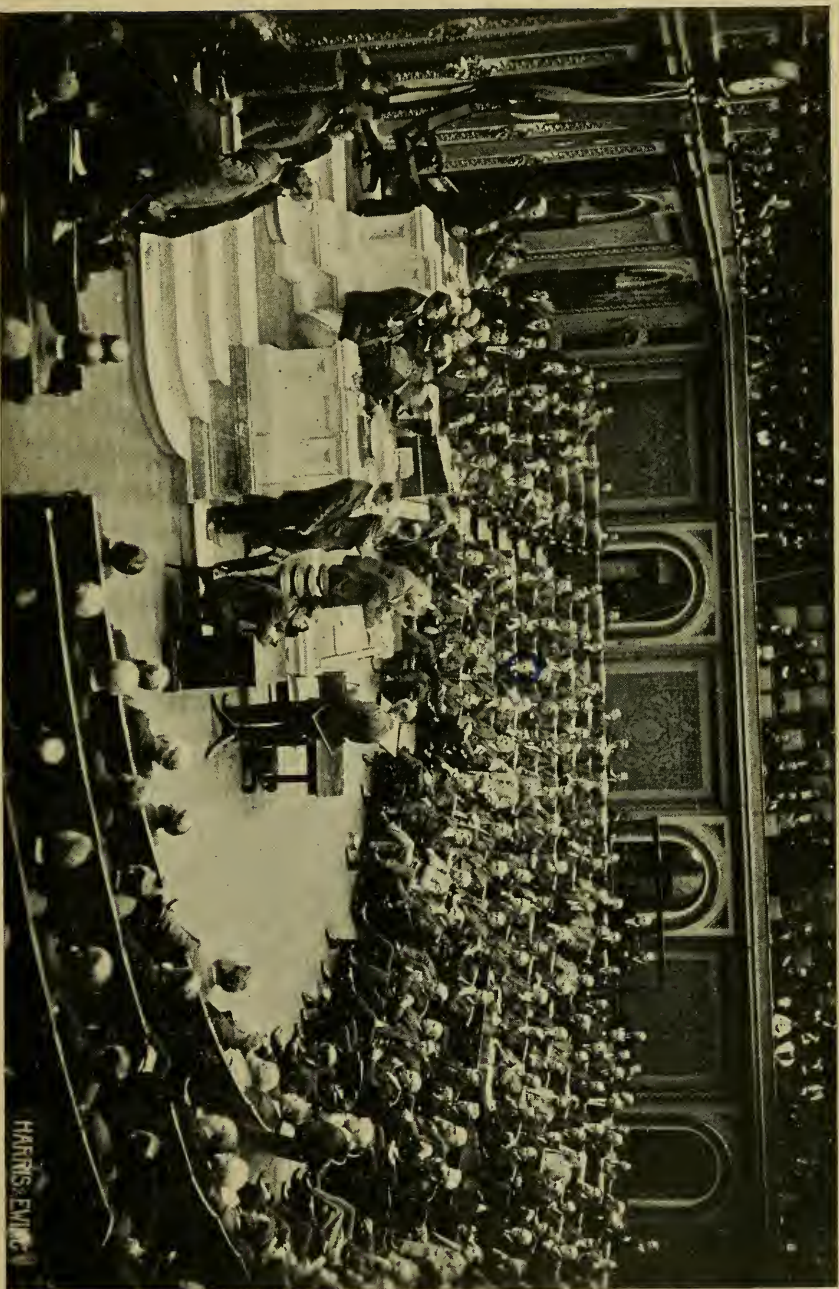
3. A representative acts not for this or that class, or for this or that interest, but for the people as people.

4. Representatives in the law-making bodies are apportioned according to population: so many people, so many representatives.

5. A representative is chosen for a fixed definite period of time, usually a short period.

Representation of the Minority. Very often the existing methods of choosing representatives works injustice to minorities. For example, at a Congressional election held in Indiana several years ago, when the Democrats cast a total vote of 291,000 (round numbers), the Republicans 166,000, the Progressives 127,000, the Socialists 38,000, and the Prohibitionists 17,000, it happened that the Democrats, having a plurality in every district, elected every one of its thirteen Representatives which the State sent to Congress. The other parties, therefore, had no representation what-

O Hon. John Harmer



HARRIS, EVING

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AMERICA'S GREATEST REPRESENTATIVE BODY
The National House of Representatives

ever, although their combined vote was much larger than the Democratic vote. To secure a representation of the minority many devices have been proposed and not a few tried. The plan that seems to have found most favor is the Hare system of proportional representation. This system aims to give to each political party or group a representation proportional to the number of votes cast by the party or group, regardless of whether that number is a majority or a minority. It is claimed for the Hare system that, if adopted, it would reproduce in Congress, in State legislatures, or in city councils the opinions and interests of voters in due proportion; that it would assure to all elements in the community an able and trusted leadership; and that it would insure the rule of the majority and at the same time give any considerable minority party a fair hearing.

The People and their Representatives. In a representative democracy, government on election day passes out of the hands of the people for a time into the hands of their chosen agents. It is plain that these agents should be well fitted for their tasks: that they should be incorruptible servants of the public; that they should be statesmen, not demagogues; that they should place the interests of their country and of their constituents above their own personal interests. It is equally plain that the success of democracy depends upon the attention which the people give to the election of their representatives and to the wisdom they show in making selections. If voters cast their ballots for the unfit and the dishonest, if they fail to vote down the political crook, if they allow the demagogue to deceive them and throw dust into their eyes, if they fail to make known their wishes and to demand that their representatives act in accordance with their wishes, then sooner or later representative government will surely break down. And the collapse will be due not to the faults of the representatives, but to the people themselves. For in a democracy the

character of the government depends upon the voters who control it.

We scold at our representatives, but this is a vain and foolish thing to do, for our representatives are one with ourselves. When we become better they will become better. We can not shift responsibility from ourselves to our representatives. Representation is a political device of great convenience, but it can not work political magic. It can not remove the burden of responsibility from the shoulders of the individual. When we assume the task of self-government we assume personal duties that no political contrivance will enable us to escape.

QUESTIONS ON THE TEXT

1. Contrast pure with representative democracy.
2. Give an account of the growth of representative government in England.
3. Give an account of the growth of representative government in the United States.
4. State five principles which, in the United States, are recognized in matters of representation.
5. Show that majority rule sometimes works injustice to the minority. What are the aims of proportional representation?
6. What are the duties of the people in regard to the matter of representation? Show that constituents and representatives are usually alike.

SUGGESTIVE QUESTIONS AND EXERCISES

1. Explain this sentence: "The United States is a representative democratic republic."
2. Distinguish between a "delegate" and a "representative."
3. What qualities are developed in the citizen of a pure democracy? Which is better for the individual, a direct or indirect democracy?
4. In some places local affairs—especially school affairs—are managed by the people meeting together and acting as a pure democracy. State the advantages and disadvantages of this custom.
5. In England voters sometimes choose as a representative one who does not reside among themselves. Give reasons for and against such a custom. Do you think that residence among his constituents is an absolutely necessary qualification for a representative?
6. Arrange the following forms of government according to their merit, placing the best first, and give reasons for your arrangement: oligarchy, absolute monarchy, representative democracy, aristocracy, anarchy, pure democracy, limited monarchy.

7. Answer the following questions with reference to the relations that should exist between a representative and his constituents: Under what circumstances will a representative be justified in opposing the wishes of the people who elected him? If the wishes of the voters change after election, should the representative act according to the changed views of his constituents? Should the representative under all circumstances act according to his own judgment? Should he abide by the promises made before his election? Should he resign if his views do not accord with the views of his constituents? When a representative is instructed by his constituents as to a course of action, should he obey the instructions?

8. Among the cities that have adopted the plan of proportional representation are: Ashtabula and Coshocton, in Ohio, and Boulder, in Colorado. If you are interested in proportional representation, address a letter to the mayor of one of these cities, requesting him to send you an account of the practical working of proportional representation.

9. What European countries have adopted proportional representation?

10. In one of our cities the teachers are demanding the right to choose one of their number to represent them on the school board, the one chosen to act, not in the name of the people at large, but in the interests of teachers as teachers. What do you think of a system of representation that is based on the interests of classes rather than on the interests of a whole body of constituents? If such a system were adopted in your city what five or six leading classes of interests would demand representation?

11. In some of the States the rule, "so many people, so many representatives," is not strictly adhered to. Is it strictly adhered to in this State? Has any attempt been made in this State to give representation to the minority?

12. *Plurality; Second Election.* If in a contest for office A receives 5,000 votes, B 4,000, and C 3,000, there is no majority, yet in most States A is declared elected because he receives a plurality. Should the will of the plurality rule?

In some countries, when there is a contest in which three or more candidates take part with the result that no person receives a majority of the votes, a second election is held, the candidates being the two persons who received the greatest number of votes at the first election. State the arguments for and against the second-election plan.

TOPICS FOR SPECIAL WORK

- ✓ 1. The New Democracy: Johnson, 355-362.
- ✓ 2. Representative Government: Dole, 174-183; Gettell, 316-317.
3. Distinction between Democracies and Republics: Johnson, 55-56.
4. The Nature of Representation: Johnson, 56-58.
5. Minority Representation: Gettell, 322-325.
6. False Leaders: Abbott, 301-312.

IV

“CHECKS AND BALANCES”

For the successful operation of our political machinery we have adopted a nicely contrived series of devices for regulating, balancing, and checking power. In this chapter we shall study the workings of this system of “checks and balances.”

How the Power of Government is Separated. When the voters transfer their power to representatives, they do not bestow upon one person or upon one body of persons all the power they have to give. To lodge supreme authority in one person might result in erecting a despotism over the heads of the people. Hence Americans have taken great precautions to defend themselves from abuses that might arise from the consolidation of power. In setting up their political machinery they have made use of a remarkable series of devices for regulating, balancing, and checking power. They have divided governmental power into three portions and have established three departments of government, to each of which they have allotted certain peculiar powers. These departments are: (1) the *legislative* department, upon which is conferred the power of making laws; (2) the executive department, which is vested with the power of carrying laws into effect; and (3) the *judicial* department, which is intrusted with the power of deciding how the law shall apply in particular cases when disputes arise.

Development of the Three-Department System. The American system of separating power and causing it to flow in three channels is an outgrowth of English experi-

ence. In the early history of England the folk moot exercised legislative, judicial, and executive powers; but along with the development of representative government there was developed a system of distributing the powers to three great departments. Parliament confined itself chiefly to making laws, a class learned in the law acted as judges, and the king carried the law into effect. The lines that divided the three departments were not always clear, and one department frequently encroached upon another. In the seventeenth century a king (James I) ventured to sit on the bench as a judge, but his conduct was universally condemned. The protest that arose against the encroachment of James shows that Englishmen by this time had learned to draw the lines that should separate the departments, and in the struggle that followed it was settled that these lines should not be blurred or effaced. In 1765 the most celebrated expounder of English law (Blackstone) could say that in England the three departments of government were separate and distinct.

The American colonists conducted public affairs after the English fashion, making use of the three-department plan, and when the founders of the Republic arranged for a new political system they based it upon the principle of the separation of power, keeping the lines of cleavage distinct and clear. They took great care that judges should do only the work of judges, that legislatures should only make laws, and that executives should be concerned only with the carrying out of laws; and they placed around each department effective barriers against encroachment by the other departments. And the policy of the Fathers has been continued to the present time. In the governments of the States, as well as in the government of the nation, three departments are always in operation, each doing a work that is peculiarly its own.

The Legislature. The most powerful and in some respects the most important department is the legislature. In the

United States it is a general rule that the legislative department shall consist of representatives elected by the people for short terms. The legislature rarely sits in continuous session, but adjourns and disperses as soon as the necessary laws have been passed. Every subject relating to the safety, welfare, and progress of society may come within the scope of legislative action.

One of the most important powers of the legislature is to provide money, by means of taxes, for the support of government. The American Revolution hinged chiefly upon the subject of taxation, and the outcome of that struggle confirmed the principle that in America there can be no taxation without either the personal consent of the people or the consent of their representatives in the legislature. The fact that government must receive its revenue through the consent of the legislature gives to that branch large powers of control over the operations of the other two branches, for without money no department can effectively exercise its powers.

At the present time the legislature of the nation (Congress) and the legislatures of the States consist of two branches, an upper and a lower house. The upper house—nearly always called the Senate—usually consists of members who are older than members of the lower house, and who are elected for longer terms. The lower house is, on an average, about three times as large as the upper house. A measure must pass both houses before it becomes a law.

Why is it necessary to have two separate bodies of men to pass a law? Experience, which has taught us so much about government, seems to decide in favor of two houses. Legislatures of a single house have been tried, and it has been found that they do not always act with sufficient deliberation. An anecdote related of Washington teaches very well the advantage of having two houses: Jefferson once, while dining with Washington, attacked the bicameral system as being clumsy and mischievous. Washington de-

fended the American plan. “You yourself,” he said, “have proved the excellence of two houses this very moment.” “I?” said Jefferson. “How is that, General?” “You have,” replied Washington, “turned your hot tea from the cup into the saucer to get it cool. It is the same thing we desire of the two houses.” When a law must pass in two branches there is an opportunity for that sober second thought which is so valuable in every sphere of action.

The Judiciary. Violations of law will occur; disputes will arise between men as to their rights under the law; questions as to the meaning and scope of a law will be raised. The power of trying offenders, and of settling controversies between contending parties, and of interpreting the meaning of the law is lodged with the judicial branch. The work of the judge is confined to the cases that are brought before him. If no cases are brought, then he has nothing to do. The judges are usually chosen by the people, although they are sometimes appointed, either by the executive or by the legislature. Historically they are really representatives of the people, for they pronounce the justice that was originally dispensed by a popular assembly. It has become the practice of all nations to select for the judiciary men who are skilled in the law, and who by temperament and character are competent to render just and lawful decisions.

The Executive. The enforcement of the laws made by the legislature, and the decisions made by the judiciary, and the preservation of peace and order are the functions of the executive branch. In this department reposes the physical force of the state. The executive has at its command armies and navies, and will use them if necessary. In republics the chief executive officers are elected by the people. Executive power in modern times is usually vested in one person—a president, a governor, a mayor, a prince, a king, an emperor. The executive frequently

has the power of *vetoing* an act of the legislature, but the veto usually can be overcome by a two-thirds vote. The veto power is plainly a legislative power.

Independence of the Departments. Under our system each of the departments is quite absolute in its sphere, and quite independent of the other two departments. If one department seems to another department to be going wrong, the latter will refuse to cooperate with the former, and thus obstruct its action. Thus if the legislature passes an act which, in the distribution of powers, the judiciary thinks it has no right to pass, the judiciary may hold the act to be null and void as soon as a dispute arising under the act is brought before it. If the judiciary presumes to exercise powers that do not properly belong to it, the legislature may by appropriate laws check the usurpation. If the executive goes strongly counter to the wishes of the legislature, the latter may refuse to vote the money that is necessary to conduct executive business and thus stop the wheels of government. Thus by a system of nicely balanced powers and effective checks the independence of each department is secured.

The maintenance of this system of "checks and balances" is a perpetual task of citizenship. If the people are not vigilant, one department will encroach upon another and gather to itself power that does not rightly belong to it. "The spirit of encroachment," said Washington, "tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism." As long as human nature remains what it is, this "spirit of encroachment" will be present; it grows out of man's inborn love of power. Grant to a man a certain amount of power, and immediately he craves a larger amount. This disposition of one department to encroach upon another can never be smothered, but it can be effectually resisted. When one branch encroaches upon another and usurps its power, it does so

simply by the natural operation of a superior force, and there is only one power that can check the usurpation—the people themselves: the voters can restore the balance by refusing to elect usurpers.

Although this independence of the departments is a cherished feature of American government, the system nevertheless has some drawbacks and disadvantages. Sometimes one department by asserting its independence obstructs the workings of the entire political machine, with the result that the government is robbed of its strength and efficiency. So far is this true that many students of political science have come to believe that we shall sooner or later be compelled to abandon the old plan of separating power and substitute a system under which power is more fully centralized and consolidated. This view has already found expression in those cities organized under the commission system (p. 208), where executive and legislative powers are blended in one body. Moreover, in several States serious attempts have been made to lodge the executive and legislative power of the State in a single body, and thus to establish in the State a form of government resembling the commission system.

QUESTIONS ON THE TEXT

1. Name the three departments of government, and state the function of each.
- ✓ 2. Give an account of the growth of the three-department system in England.
- ✓ 3. To what extent has governmental power been separated in the United States?
4. What are the powers of the legislature?
5. Into what two branches is the legislative department divided? Why has it been thought wise to adopt the bicameral system?
6. What powers are vested in the judiciary?
7. What are the powers of the executive department? What are the titles of some of the chief executive officers?
8. Explain how one department may maintain its independence with respect to the other two.
9. Why is one department likely to attempt encroachment upon another? Can such encroachment be prevented?
10. What are some of the drawbacks and disadvantages of the

three-department system? What reform in connection with the system has been proposed?

SUGGESTIVE QUESTIONS AND EXERCISES

1. If power must consolidate, in which branch do you prefer that it gather? Give reasons.

2. Name some of the great law-givers of history; some of the great executive geniuses.

3. Contrast the qualities that are desirable in a law-maker with those that are desirable in an executive officer.

4. Make out a list containing the names of every public official whom you are personally acquainted with, and tell with what department each person is connected.

5. In the government of yourself you are actuated by conscience, by judgment, and by will. To which of the three departments may your conscience be likened? your judgment? your will?

6. Professor W. B. Munro says: "It would appear, therefore, that division of powers is not needed by the States in the interest of safety, that it is the mainspring of clouded responsibility and the absence of vigorous leadership in government, that it has been blindly carried to an extreme in the decentralizing of executive power, and that it should give place to some plan of concentrated authority." Is this observation pertinent to the conditions that exist in your State? Is the three-department system working badly in your State? Is there any sentiment in your State in favor of concentrating power in the manner referred to in the last paragraph of this chapter? How did the three-department system operate when it became desirable for us to make peace with Germany after the conclusion of the Great War?

7. State to which of the three departments of government the following functions should be assigned: (*a*) the bombardment of a city by a fleet; (*b*) the sale of property for debt; (*c*) the execution of a murderer; (*d*) the sentencing of a thief; (*e*) the ordering of taxes to be collected; (*f*) the collection of taxes; (*g*) the dispersal of a mob; (*h*) the muzzling of dogs; (*i*) the declaration of war; (*j*) the arrest of a man for disorderly conduct; (*k*) the construction of a bridge; (*l*) the regulation of the descent of property; (*m*) the settling of a dispute between the heirs of an estate; (*n*) the regulation of the speed of automobiles; (*o*) the determination of damages for injuries received in an automobile accident.

TOPICS FOR SPECIAL WORK

1. The Doctrine of the Separation of Power: Johnson, 59-62.
2. Evolution of the Separation of Powers: Gettell, 327-328.
3. Checks and Balances in the United States Government: Gettell, 332-336.
4. The Legislature: Gettell, 341-362.
5. The Separation of Powers: Beard, 152-155.

V

CONSTITUTIONAL GOVERNMENT

Three of the great principles underlying the American government have now been explained: it has been learned that our country is a democracy resting upon the will of an electorate consisting practically of the whole body of the adult population; that the people govern through their chosen representatives; that the powers of government are distributed to three separate classes of officials. A fourth principle is this: In the United States, government is conducted according to the words of written documents, called constitutions. That is to say, we have a *constitutional government*.

Colonial Charters. Americans from the beginning have been accustomed to the written word for guidance and control in public affairs. Each colony had a written *charter*, which described the kind of government it was to have and the privileges it was to enjoy. The colonial charters, whether granted directly by the English King—as most of them were—or prepared by the people themselves, were held in the highest esteem by the colonists. A colony looked upon its charter as the written guaranty of its liberties, much as an owner of property looks upon his deed as giving him title to his home or farm. When the King or his officers became oppressive or unjust, the people would point to their charter as their defense. Since the charters were not all alike, the several governments of the colonies differed from one another; but since the charters were all of English origin, and since the laws of England applied to all the colonies alike, the government of one colony could not differ widely from that of another.

Constitutions. When the colonies separated from Great Britain and became independent States, the old charters of course lost their validity, for there was no king to stamp

them with authority. The people saw at once that they must be their own king and make their own charters. As rapidly as possible, each of the new States drew up for itself a charter which recognized the people as the source of authority in government. A new name was given to this new instrument. Instead of its being called a charter, it was called a *constitution*. This constitution was to be the foundation plan and framework upon which the governmental structure was to be built. Of course, each new constitution was similar to the charter it supplanted. For a State to plan a government entirely unlike the one to which the people were accustomed would have been to commit a grave political error. A government that is new and strange is not likely to receive the confidence and respect of the people, no matter how wise and beneficent may be its provision. The statesmen of 1776, therefore, made the new State constitutions conform as closely as possible to the colonial charters. Connecticut and Rhode Island experienced no change at all in passing from colony to State. They simply substituted the word "people" for the word "king" in their charters, and these became their constitutions.

After they had established their independence, the States found that it was necessary to unite and form a central government. The powers of this central government were expressed in the Constitution of the United States. The history and nature of this great document will be given hereafter. It is sufficient here to say that the Constitution¹ of the United States is our fundamental law. We have had occasion to refer to it heretofore, and throughout our work we shall refer to it constantly, and as we advance we shall learn more and more of its authority and influence in our political life.

Each of the States that have been admitted into the Union under the Constitution (118) has followed the ex-

¹ In this book when the word *constitution* begins with a capital letter the Constitution of the United States is meant.

ample of the original States, and has framed a constitution for itself. Every State, therefore, and the United States as well, has a written constitution as its fundamental law. Every American citizen, therefore, lives under two constitutions. Cities likewise are governed by charters (p. 65), which in some respects are like written constitutions. Thus government in America is everywhere conducted according to the written word; it is everywhere constitutional.

How Constitutions Obtain Their Authority. The first American constitutions were promulgated in the name of the people; yet they were not, as a rule, the direct creations of the people. The statesmen of 1776 did not have a very strong faith in democracy, and were not quite willing to submit a fundamental law to a popular vote. As democracy grew more fashionable, however, and as the people came to be more fully recognized as the real masters of government, the custom of submitting constitutions to voters for their approval became general. At the present time a constitution is usually ratified by the people at the polls before it is put into operation. This popular ratification clothes the constitution with all the authority that a law can possibly have, for it is a law passed by the people themselves acting as legislators. A constitution, therefore, is a solemn and deliberate expression of the popular will, and as such it is a fixed, permanent law which all the branches of a government must obey. If the legislature should pass a law conflicting with the provisions of the constitution, such a law would cease to have effect if it should be tested in the courts and should be declared unconstitutional; and if a judge or the executive should act in violation of the constitution, such action would be illegal and possibly punishable.

Outline of a Typical Constitution. If all the American constitutions were brought together and printed in a single

book they would make an enormous volume. It is impossible, therefore, for the detailed provisions of the constitutions to appear in a treatise like this. It is worth while, however, to call attention to the broad features of a constitution. The strong resemblance that the forty-eight constitutions of the States bear to one another and to the Constitution of the United States makes it possible to describe all in outline by describing one in outline. The essentials of a constitution are:

(1) A brief *preamble* (1) stating the general purpose for which the government is instituted.

(2) A *bill of rights*, guaranteeing to the people democratic principles of government, personal security, the rights of life and property, freedom of conscience, freedom of speech and of the press, and other fundamental rights of citizenship.

(3) Provisions for the *organization* of the three departments of government, and a description of the powers to be exercised by each.

(4) *Miscellaneous provisions* relating to such topics as the suffrage, elections, local government, taxation, the public debt, corporations, transportation, education, labor, commerce, and industry.

(5) Provisions for *amendment* and *revision*.

(6) A *schedule* describing how and when the constitution shall go into effect.

Amendments and Revision of Constitutions. Of all the provisions in a constitution, the most important, perhaps, is the one relating to amendments and revisions. For, although a constitution is a fixed, unchanging law, it may not remain unchanged and unchangeable forever. A provision in a constitution that was wise and just fifty years ago may be harmful now. Every constitution recognizes this fact, and provides for making changes when these may seem necessary. These changes, or *amendments*, are effected in various ways, the usual procedure being as fol-

lows:¹ the amendment that is thought to be desirable first passes the legislature of the State and is then submitted to the people for their approval. If it receives the required number of votes it becomes a part of the constitution. An amendment, it will be seen, is simply a law passed by the people and placed in the constitution; but it is a law that cannot be repealed by the legislature.

Constitutions provide not only for their own amendment, but also for their own complete revision. They provide for the calling of a *constitutional convention*, which shall have power to revise the old constitution and frame a new one. A general revision of a State constitution is usually accomplished in the following way: The legislature submits to the people the question whether or not a convention shall be called to frame a new constitution. In several States this question must be submitted to the voters every twenty years; in Michigan it must be submitted every sixteen years; in Iowa every ten years. If the vote is in favor of a convention, delegates are elected, and the work of revision begins. It is the custom to submit the revised constitution to the people for their approval, although this is not always done.

In the power of amendment resides the means of making in a peaceful and regular manner any kind of change that the people may desire; for it is a power that is unrestricted and unlimited. Through it great and radical reforms may be achieved without violence or social upheaval. True, a constitution cannot be suddenly altered. A year or two, at least, must elapse before a proposed change can be fully effected. This delay has its disadvantages, but upon the whole it results in good. It gives time for discussion and reflection. A constitution would not be worthy of its name if caprice or passion could change it in a day.

¹ In a number of States amendments are secured through the operation of the initiative and referendum (p. 157). For the method of amending the Constitution of the United States see page 152.

If citizens believe that their State constitution or the Constitution of the United States stands in the way of reform or prevents their representatives from doing something that in justice ought to be done, they should be quick to use the power of amendment. For constitutions ought to respond to social needs and aspirations. "Some men," says Thomas Jefferson, "look at constitutions with sanctimonious reverence, and deem them, like the ark of the covenant, too sacred to be touched. But I know that laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths disclosed, and manners and opinions change with the change of circumstances, institutions must advance also and keep pace with them."

QUESTIONS ON THE TEXT

1. What place did charters occupy in the political life of the colonies?
2. By what process did government by charters change to government by constitutions?
3. To what extent are written constitutions employed in the United States?
4. From what source does a written constitution obtain its authority?
5. Give the outlines of a typical written constitution.
6. How may a constitution be amended? How may a new constitution be revised?
7. To what extent may the power of amendment be used for accomplishing reforms? What did Jefferson think about making changes in constitutions?

SUGGESTIVE QUESTIONS AND EXERCISES

1. What is the derivation of the word *charter*? *constitution*?
2. Compare the constitution of your State in outline with the outline indicated in the text.
3. Write a brief constitutional history of your State, telling when the first constitution was adopted, what revisions have been made, the date of the adoption of the present constitution, and describing any important amendments that may have been added.
4. James Bryce, an Englishman, in one of his books says that he imagines that the American people could govern themselves with-

CONSTITUTIONAL GOVERNMENT

62

out written constitutions. Give reasons why an American could hardly be able even to imagine such a thing.

5. Explain fully the following sentence: "The United States is a democratic, representative, constitutional republic."

6. Ought your State to have a new constitution? How could a new constitution be secured?

7. Describe the kind of persons that should be chosen as members of a constitutional convention.

8. Draw up a constitution of the government of a debating society. In preparing this exercise remember that a constitution describes only the outlines of government and states only general principles.

9. Would it be wise for your State to exchange constitutions with a neighboring State? Give reasons for your answer.

10. *The English Constitution.* In all the countries of our Western World and in most of the countries of Europe, government is conducted according to the terms of a written constitution. In England, however, there is no written constitution, no single printed document that contains the whole body of the fundamental law of the land. There is, nevertheless, an English constitution, and it is one of which Englishmen are justly proud. It consists of the statutes of the English Parliament, of the rules of law as laid down by the courts, and of certain habits and practices that custom—and custom alone—has prescribed for the guidance of public officials. The English constitution can be changed at any time by the action of Parliament.

TOPICS FOR SPECIAL WORK

1. Constitutional Conventions: Reinsch, 435-449.
2. The Constitutional Convention: Holcombe, 394-400.
3. The Written and Unwritten Constitution: Kaye, 51-55.
4. How the Colonies Were Governed: Hinsdale, 36-51.
5. The Evolution of State Constitutions: Beard, 78-98.

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VI

FEDERAL GOVERNMENT

The student now ought to understand what is meant when it is said that the United States is a democratic, representative, constitutional republic. But this statement does not describe fully the kind of government we have. A complete description would be this: The United States is a democratic, representative, constitutional, *federal* republic. For our country is a federal republic and has a federal government. It is necessary, therefore, at this point to take up the subject of *federal government*.

Different Kinds of Political Unions. An *alliance* is an agreement between two or more sovereign states to co-operate in the accomplishment of some mutually desirable purpose. A state entering into an alliance does not surrender or impair its sovereignty. Since an alliance may be dissolved at the pleasure of any of the contracting parties, it is the weakest of all political unions. Another kind of union between states is the *confederation* or *league*. A confederation is formed by two or more states uniting and establishing a central government, vesting it with certain powers, but withholding from it the right of exercising authority over individuals. In exercising its power the central government of a confederation must operate through the agency of the states that compose the union. The states of a confederation, therefore, are united more firmly than they would be by an alliance, but not so closely and so intimately as to form an indestructible and indivisible union.

The strongest of all political associations is the *federal union*. In the federal union the uniting states establish a central (federal) government which is independent of

themselves, and which operates with organs of its own, its power extending even to individuals. In the formation of the federal union—or the federal state, as it may very properly be called—the federal government is made sovereign in respect to matters that concern all the states taken collectively, while each separate state retains its sovereignty in respect to those matters that concern only itself.

Complexity of American Government. The United States is a federal republic, and its government is complicated and difficult to understand. Under our system authority flows from two sources: we have one government of the nation and another government of the State; we have two constitutions and two sets of laws to be obeyed, and two sets of officers to enforce the laws; we have forty-eight States working side by side, each attending to its own affairs in its own way, and over and through and in all these States there is the federal government attending to the affairs of the nation. How is this twofold authority possible? How can a person serve two masters? Suppose the federal government should command what the State forbids, which shall be obeyed? Where is the line that divides the authority of the federal government from the authority of the State? Such questions as these early force themselves upon the student of American government. We may best approach the task of answering them by taking a glance at history.

Beginnings of the American Union. The American Union as we see it to-day is the result of nearly three centuries of political association of colony with colony and State with State. The New England Confederation (1643), the Albany Plan of Union (1754), the Stamp Act Congress (1765), the First Continental Congress (1774), were stepping-stones to the Union. The real beginning of our federal republic dates from 1775, when a Continental Con-

gress composed of delegates from all the colonies met in Philadelphia. Earlier congresses had merely debated and petitioned and passed resolutions, but the Continental Congress of 1775 acted like a government. It took charge of those matters that were of general concern. It assumed command of the army that had been put into the field; it took charge of foreign affairs; it issued a currency; it managed the post-office. The question of its right to do these things was not raised. It did the things it thought the people wished it to do. Thus in 1776 it thought the people of the colonies wished a separation from the mother country. To make sure that it was not wrong in this opinion, it adjourned in order that the delegates might go back to their homes and learn the exact state of public sentiment. Upon reassembling, Congress, convinced that the people were ready for a separation, on July 4, 1776, declared the colonies free and independent States, absolved from all allegiance to the British crown.

Articles of Confederation. While Congress was meditating independence, it was also considering plans for bringing all the colonies under one regular, permanent government. Franklin, in 1775, submitted a plan of confederation, but it was not adopted. In 1776 John Dickinson reported a plan, which in 1777 was adopted as the Articles of Confederation. These articles were submitted to the States for their approval, and in March, 1781, having been ratified by all the States, they became the framework for a new government for the United States.

The government established by the Articles was a confederation. Its sole organ of authority was a legislature of one house, called a Congress, presided over by a president elected by members from their own number. A State could not send fewer than two delegates nor more than seven to the Congress; but, whatever the number of delegates, a State had but one vote, determined by a majority of its delegates present. Voting was, therefore, done by

States, and it required the votes of nine States to carry any important measure. Any alterations in the Articles had to be agreed to by Congress and afterward confirmed by the legislatures of all the States, a provision that made amendment practically impossible. The most important powers committed to the new government were:

- (1) To determine questions of peace and war.
- (2) To enter into treaties and alliances.
- (3) To send and receive ambassadors.
- (4) To make rules governing captures on land and water.
- (5) To decide, upon appeal, disputes between two States concerning boundaries.
- (6) To determine the value of current coin.
- (7) To manage Indian affairs.
- (8) To establish and regulate post-offices.
- (9) To appoint naval officers and the higher grades of army officers.

The States, while bestowing these powers upon the confederated government, expressly denied the same powers to themselves, and pledged themselves to abide by the decisions of Congress in all matters submitted to it for determination. Congress could in no case bring its power to bear upon the individual citizen, nor had it any means at its command to compel the obedience of a State.

Weakness of the Confederation. The government provided by the Articles was deplorably weak both in its organization and in its powers. It had no executive branch and no judicial branch, and as a legislature it was bad, for it was one of a single house. All the powers were united in one body. Such a government must either rule like a tyrant or it must collapse.

As long as the war with England continued the Articles of Confederation rendered valuable service; but when peace came, and common danger no longer spurred the States to united action, it was soon seen that they were a

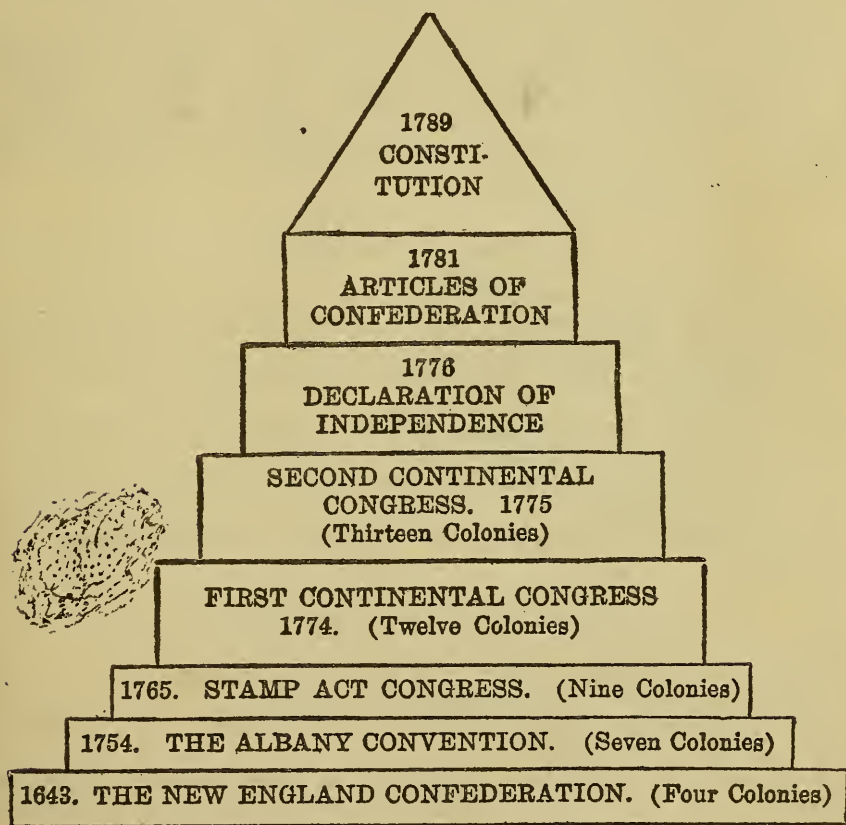
rope of sand. It was seen that Congress "could make and conclude treaties, but could not recommend the observance of them. It could appoint ambassadors, but could not defray the expenses of their tables. It could borrow money, but could not pay a dollar. It could coin money, but could not purchase an ounce of bullion. It could make war and determine what troops were necessary, but could not raise a single soldier. In short, it could *declare* everything, but *do* nothing." It could not do what every useful government must be able to do; it could not secure obedience to its laws; it could not reach the individual, and it would have been folly to attempt to enforce its laws against a State.

As a result of its inherent weakness the Confederation soon fell into a deplorable condition. Solemn treaties were violated, debts were repudiated, worthless paper money was issued, State quarreled with State. Disregard for the laws of Congress was naturally followed by a contempt for the laws of the State. In several States courts were broken up by armed mobs, and rebellion threatened the very existence of government. Congress sank to such a condition of inefficiency and feebleness that it lost the respect of the country.

Efforts to Strengthen the Confederation. Thoughtful men saw the approaching downfall of the Confederation with alarm. They recognized that if the union of the States were dissolved, and each State should assume complete and undisputed sovereignty, the fruits of independence would be most bitter. With thirteen nations instead of one, the country would be the easy prey of foreign invaders; sectional interests would jostle each other and bring State into conflict with State; commerce between the States would be shackled; and all the social, moral, and intellectual advantages that flow from union would be lost.

Before it was too late, men like Washington and Hamilton and Franklin came forward with measures designed

to strengthen the union. In 1785 commissioners from Maryland and Virginia met at Washington's home in Mount Vernon to adjust some matters of interstate navigation. At this meeting Washington suggested that the two States ought to enter into an agreement as to the regulation of interstate commerce in all particulars. The dis-



THE GROWTH OF THE CONSTITUTION

cussion following this suggestion showed that if there was to be any useful regulation of commerce between the States all the States must join. Accordingly, all the States were invited to appoint commissioners to discuss the matter. In response to this invitation five of the thirteen States met at Annapolis in 1786. This representation was considered

too small and the meeting adjourned without attempting anything. Before adjourning, however, it recommended that a convention of all the States be held at Philadelphia in May, 1787, "to take into consideration the situation of the United States, to devise such further provisions as shall appear necessary to render the Constitution of the federal¹ government adequate to the exigencies of the times." Congress, seeing the drift of affairs, adopted the idea of holding a general convention, and resolved that it was expedient that in May, 1787, one be held at Philadelphia "for the sole and express purpose of *revising* the Articles of Confederation."

QUESTIONS ON THE TEXT

1. Define *alliance*; *confederation*.
2. What is a *federal union*? In what respect does a federal union differ from a confederation?
3. What were some of the things done by the Continental Congress of 1775?
4. Describe the Confederation of 1781. What were the most important powers of the Confederation?
5. Point out the defects of the Confederation and give an account of its decline and fall.
6. What efforts were made to strengthen the Confederation in its last days?

SUGGESTIVE QUESTIONS AND EXERCISES

1. What is the derivation of the word *federal*?
2. Name the federal governments of the earth.
3. What does an individual state lose by entering into a federal union? What does it gain?
4. Indicate the growth of federation in America by reproducing the diagram on p. 43. Give a brief historical account of each event referred to in the diagram.
5. Is the League of Nations an alliance or a confederation?
6. Name the states that have joined the League of Nations.
7. Give an account of the services of Benjamin Franklin in the cause of American Union.
8. Prepare a five-minute paper on the "Dark Days of the Confederation." Consult Fiske's "Critical Period of American History."

¹ The Confederation was frequently called a federal government. In 1787 men had not yet learned to distinguish clearly between a federal and a confederated government.

TOPICS FOR SPECIAL WORK

1. The Formation of the Union: Hinsdale, 69-72.
2. Defects in the Articles of Confederation: Kaye, 39-44.
3. Reasons for the Failure of the Articles of Confederation: Beard, 36-42.
4. Preliminaries of National Government: Munro, 14-25.
5. Confederation: Gettell, 264-266.

VII

THE WORK OF THE FATHERS

The Constitution Framed and Ratified. The call of Congress for a convention was responded to by all the States excepting Rhode Island. The men sent to the Convention were the ablest and wisest in America. They represented conflicting interests, and differed widely among themselves in their views of government, but they were capable of placing the public good above selfish considerations. They had not proceeded far with their work before they saw that a mere revision of the Articles of Confederation would not bring relief to the country. If union was to be anything more than a name, there must be a central government clothed with substantial power. Instead of continuing the Confederation, which was avowedly a mere "league of friendship" in which the exercise of power depended upon the States, the men of the Convention bravely decided to frame a Constitution for a real *federal* government, one that should have its three departments conducted by its own officials, and that should be independent of the State in the exercise of its powers. The proposed government was to reach the individual, make laws for him, take money out of his pocket for taxes, and judge and punish him if he violated its laws.

The framework of the new government was agreed to after a most serious and thorough discussion, and was submitted in September, 1787, to the people of the States as a "Constitution for the United States of America." If ratified by nine States (129) the new Constitution was to go into operation. Its adoption was opposed fiercely by those who did not believe in a strong central government:

but its friends were stronger than its enemies, and by July, 1788, it had been ratified by eleven States, North Carolina and Rhode Island withholding their consent.

Distribution of Powers. If we are to have clear ideas about our political system, we must understand how the Convention of 1787 distributed power; we must know what powers were given to the new federal government established by the Constitution, and what powers the States were allowed to retain. It will help us to understand this subject if we will suppose that the men of the Convention had at their disposal *all* the powers of a sovereign state, *all* the powers that it is possible for a government to exercise, and that they divided these powers between the new federal government and the existing State government in such a manner as they thought best. With this supposition in mind, let us see what disposal they made of the great reservoir of governmental power at their command. And first let us learn what powers they gave exclusively to the federal government:

I. *Powers Exclusively Federal.* When granting a power exclusively to the federal government, it had to be plain to the minds of the framers (1) that the States would be willing to surrender the power; (2) that the federal government needed the power; (3) that the power when exercised would affect all the States alike. Applying these tests to each grant of power, the framers gave the federal government absolute control in the following matters: war, peace, treaties, alliances, ambassadors, postal affairs, the army and navy, foreign commerce, interstate commerce, naturalization, coinage of money, Indian affairs, bankruptcy, patents, copyrights, territories, letters of marque and reprisal.

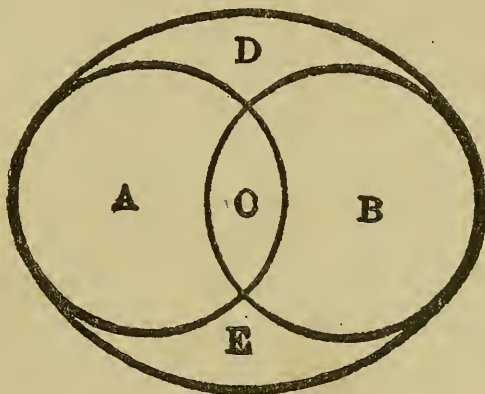
II. *Concurrent Powers.* If the proposed federal government was to be strong and efficient, it must be permitted to raise money by taxation and to borrow money; it must define the qualifications of those who were to vote

for its officers and regulate the time and manner of holding the elections of its officers; it must have the support of the State militia in times of war. But it was not considered wise for the federal government to be given the exclusive power of collecting taxes and borrowing money and controlling elections and the militia. Hence it became necessary for the framers to grant certain powers to the federal government, and at the same time to reserve powers of the same kind for the State. Powers belonging to both governments are called *concurrent*. The concurrent powers established by the Convention relate to the following matters: taxation, public debt, citizenship, suffrage, elections, militia.

III. *Powers Prohibited to the Federal Government.* While the framers planned for a federal government that should be capable of achieving its rightful purposes, they at the same time took care that it should not be an instrument of oppression. To safeguard the interests of the States, they formally prohibited certain powers to the federal government. The powers denied to the federal government in the Convention are stated in Article I, Section 9, of the Constitution. Other prohibitions are found in the first eight articles of the amendments that were adopted in 1791 to allay the fears of those who thought the new government might exceed its powers. These eight amendments are the bill of rights of the Constitution. They restrain the federal government, but they do not restrain the State.

IV. *Powers Prohibited to the State.* The framers saw that certain limitations upon the power of the State would also be wholesome. Indeed, in 1787 prohibitions upon the power of the State were more necessary than prohibitions upon the federal government; for the States were strong and were disposed to disregard the authority of the central government. Accordingly, as a pledge of good faith on the part of the States, a self-denying section (Article I, Section 10) was inserted in the Constitution.

It should be noticed that there are several prohibitions upon both the State and the federal government. Neither a State nor the United States can grant any title of nobility (71, 73); pass an *ex post facto* law—that is, a law that makes criminal an act that was not so when committed, or that increases the severity of the punishment of a previous act (65, 73); or enact any bill of attainder, that



THE DISTRIBUTION OF POWERS

(Suggested by C. S. Tiedemann)

Outer circle—All the powers of Government

Circle A—Powers exclusively Federal

Circle B—Powers of the State

Segment C—Concurrent powers

Segment D—Powers prohibited to the Federal Government

Segment E—Powers denied to the State

is, a law that inflicts punishment without judicial trial (65, 73). These are things that no popular government ought to do, and in the United States they can not possibly be done by any existing governmental agency. Still another prohibition upon both the State and the federal government is that which refers to exports: Congress can lay no duty on articles exported from any State, and the State is also practically prohibited from levying export duties (67, 74).

V. Powers Reserved to the State. After the framers had provided for the general powers of the federal govern-

ment, and had made the needful prohibitions of power, we may think of them as having reserved to the States and to the people all the remaining powers of government. They did not formally make this reservation in the Convention, but it was understood that the powers not granted to the federal government or prohibited to the States remained to be exercised as the States or as the people of the United States might ordain. In order that there might be no mistake on this point, an amendment (144) adopted in 1791 declared that "the powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively, or to the people." The nature and extent of the powers reserved to the State will be the subject of the following chapter. At present it is enough to say that the framers were able to invest the federal government with supreme powers in reference to the great affairs of a nation and still leave the State supreme in most of the affairs that concern us in daily life.

Implied and Resulting Powers of the Federal Government.

The powers of the federal government are accurately defined and enumerated in the Constitution (Article I, Section 8). Among these powers is one giving Congress the right to make all laws that are necessary and proper (63) for the execution of the enumerated powers. Under the authority of this right there have been exercised many *implied* powers,—powers that are not specifically mentioned in the Constitution, but that naturally arise from those that are specifically mentioned. For example, from the expressed power of regulating commerce (47) arise the implied powers of building lighthouses and improving harbors; from the expressed power of coining money (49) arises the implied power of establishing mints. Hundreds of things done by the federal government are justified by the doctrine of implied powers.

The Constitution does not expressly grant to the federal

government certain powers that the government of a sovereign nation ought to have. To meet this deficiency Alexander Hamilton brought forward his doctrine of *resulting* powers—powers that result from the “whole mass of the power of government, and from the nature of political society, rather than as a consequence of any especially enumerated power.” According to Hamilton’s views, a new sovereign nation had been brought into being by the events of the Revolution and the adoption of the Constitution; and this nation, by the very fact of its existence, possessed all the powers a nation ought to have, whether all were mentioned in the Constitution or not. For example, he contended that if the United States should conquer a country, it would have sovereign jurisdiction in that country, although the Constitution says nothing whatever about such jurisdiction. Hamilton was bitterly opposed by Jefferson and others who believed in holding the federal government strictly to the terms of the Constitution; but the doctrine of resulting powers carried the day, and Jefferson was destined to give to it its most distinguished application when he purchased Louisiana without authority specifically expressed in the Constitution.

Limitations of the Federal Government. It must not be understood that under the guise of implied and resulting powers the federal government can do anything and everything, for it is in a true sense a government of limited powers. Jefferson and Hamilton were both right. We are bound by the words of the Constitution, as Jefferson contended; but, as Hamilton contended, the words “general welfare” (45) and the “elastic clause” (63) are broad enough to permit us to do anything consistent with the purposes for which the Constitution was adopted.

How the Federal Constitution Is Amended. Changes in the distribution of powers, and additions to and subtractions from the power of the federal government, are brought

about by the amendment of the Constitution (122). Under the Confederation an amendment to the Articles could be adopted only with the consent of all the States. The Fathers, regarding this rule as being too rigid, provided easier methods of amending the Constitution. The four processes by which the Constitution may be changed are: (1) and (2) Congress, by a two-thirds vote of both houses, may submit an amendment to the States for ratification (122), and if the amendment thus submitted is ratified by the legislatures of three fourths of the States, *or* by Conventions in three fourths of the States, it becomes a part of the Constitution; (3) and (4) a national Constitutional Convention, called by Congress upon the application of the legislatures of two thirds of the States, may submit an amendment to the States for ratification, and if the amendment thus submitted is ratified by the legislatures of three fourths of the States, *or* by Conventions in three fourths of the States, it becomes a part of the Constitution (123).

Although it is much easier to amend the Constitution now than it was under the Articles, still many people believe that the present method of amendment is more cumbersome and difficult than is consistent with the free play of the popular will. Recent experience, however, has taught that amendments can be secured rather easily and with considerable celerity. Within less than a decade three profoundly important Articles have been added to the fundamental law. The rigidity of the methods of amending the Constitution, therefore, is, after all, not such a very bad thing. Indeed, looked at in one way, this rigidity is a very good thing; for, as Professor Ross says, once a good reform has been nailed down in the Constitution, we know it is there to stay. If it were easy to get a reform in, it would be easier to get it out, and we should be kept in a constant tumult of change.

QUESTIONS ON THE TEXT

1. Give an account of the framing and ratification of the Constitution.
 2. What tests did the framers apply to each grant of power given exclusively to the federal government?
 3. What matters were placed entirely under federal control?
 4. What is a concurrent power? To what matters do the concurrent powers relate?
 5. Enumerate the powers prohibited by the Constitution to the federal government.
 6. Enumerate the powers prohibited to the States.
 7. Name four powers prohibited to both governments.
 8. What is the nature of the powers reserved to the State?
 9. What is an *implied* power? a *resulting* power?
 10. Explain why the federal government is one of limited powers.
 11. In what four ways may the federal Constitution be amended?
- Discuss the methods of amending the Constitution.

SUGGESTIVE QUESTIONS AND EXERCISES

1. For the purpose of exhibiting the powers of government under our federal system prepare a large chart similar to the one found on page 49. Let the outer circle of the figure represent all the powers of government, all the powers that were at the disposal of the framers. In circle *A* write the powers exclusively federal; in segment *C* the concurrent powers; in segment *D* the powers prohibited to the federal government; in segment *E* the powers denied to the State. Reserve circle *B* for the powers of the State.
2. Discuss each of the powers granted exclusively to the federal government, and give reasons for the grant.
3. Explain fully this sentence: "The United States is a democratic, representative, constitutional, federal republic."

TOPICS FOR SPECIAL WORK

1. First Amendments to the Constitution: Johnson, 134-142.
2. Origin of the Federal Convention: Johnson, 93-101.
3. Legislatures of the Union: Hinsdale, 236-242.
4. The Present Meaning of the Constitution: Kaye, 65-72.
5. The Supreme Law of the Land: Munro, 44-57.
6. Distribution of Powers in a Federal Government: Gettell, 271-276.

VIII

THE STATE

It will add greatly to an understanding of our political system if we now learn the leading facts about the State considered as one of the component parts of the federal Union. What are the powers of the State? How are disputes between the States and the federal government settled? What is the relation of one State to another?

Powers of the State. After independence had been declared and the colonies had been transformed into States, each State found itself the possessor of almost unlimited political power. No State, however, at any time actually exercised all the powers of government. For example, no State ever made a treaty with a foreign country. From the moment of their separation from England, the States relied upon a central government, the Continental Congress, to manage the affairs of war and peace and to establish foreign relations. Nevertheless, this central government was never strong, and in its last days it can hardly be said to have possessed any power at all. The States, therefore, went into the Convention of 1787 as masters of the situation.

We have learned what powers they granted to the new federal government, what powers they expressly denied to it, what powers they expressly denied to themselves, and we have seen that they reserved for themselves all the powers they did not part with in the Convention. What were these reserved powers? This question cannot be fully answered. The powers of the federal government can be enumerated, but the powers of the State can be indicated only in general terms. The framers provided liberally for the federal government, but they did not deprive the State of the privilege of managing its own affairs in its

own way. The State government could still enter the home and prescribe the legal relations that were to exist between husband and wife, between parent and child, between master and servant; it could still enter the domain of business with laws to regulate buying and selling, debt and credit, partnership and contracts, possession and alienation of property, wills and inheritances; it could still control all its local governments, county and city and town, and almost all private corporations (p. 65); it could still maintain its own schools and its own system of police; it could still administer justice in all ordinary cases and punish all ordinary crimes; it could still determine the religious, civil, and political rights of its citizens and prescribe the qualifications of voters and conduct its elections.

The powers reserved to the State included those that the State was free to exercise, and that it actually was exercising under the Constitution at the time of its adoption, and they also included those that the State in the future might have occasion to exercise. In 1787 there were no railroads, and consequently there was no such thing as a power in reference to a railroad; yet, when railroads began to be built, they fell under the authority of the State by reason of its reserved powers (143, 144). And so it has been with the powers relating to the telegraph and telephone and scores of other things that had not been dreamed of in 1787.

Conflict of Federal and State Authority. Under such a scheme of powers as has been ordained by the Constitution, it is to be expected that State authority will sometimes clash with federal authority. The federal government within the circle of its powers is supreme and irresistible, and the State within its circle is independent of any higher power. Where two governments exercise political power within the same territory over the same people, disputes are almost certain to arise. Then again, the con-

current powers relating to taxation, elections, and citizenship are sometimes a source of conflict. Moreover, there will sometimes be collisions between the two governments when each is exercising a power that appears to be strictly its own.

For example, if in the exercise of its police power (p. 384) a State should pass a law forbidding the running of trains from one point to another within the boundaries of the State on Sunday, it might appear to be acting strictly within the scope of its authority; yet such a law would almost certainly clash with the federal regulations for carrying the mails. What is to be done in such a case? Shall the engineer move on with the train and carry the mails, or shall the State law be obeyed? The framers of the Constitution provided a method of determining all such questions. It devolved the duty upon the Supreme Court of the United States. It is the constant task of the Supreme Court, when rendering decisions in cases brought before it, to keep each government within its proper sphere; and for more than a hundred and thirty years this tribunal has performed this delicate service with remarkable success.

Interstate Relations. Politically speaking, one State is quite independent of another. A State may establish such a government as seems to it best, providing that its constitution and laws are not contrary to the Constitution and laws of the United States, and providing that its government is republican in form. The republican form of government guaranteed to the State by the Constitution (120) is, broadly speaking, one in which the principle of representative democracy is recognized. The federal government under this guaranty would not permit an autocracy or an oligarchy or a monarchy to be established within a State. When rival governments are set up within a State, the federal government will decide which is the lawful government, and if necessary will assist in crushing the unlawful rival.

Congress of the United States,

AT THE THIRD SESSION,

Begun and held at the City of Philadelphia, on

Monday the sixth of December, one thou

sand seven hundred and ninety.

*An ACT for the ADMISSION of the STATE of VERMONT into
this UNION.*

THE State of Vermont having petitioned the Congress to be admitted a member of the United States, Be it enacted by the SENATE and HOUSE of REPRESENTATIVES of the United States of America in Congress assembled, and it is hereby enacted and declared, That on the fourth day of March, one thousand seven hundred and ninety-one, the said State, by the name and stile of "the State of Vermont," shall be received and admitted into this Union, as a new and entire member of the United States of America.

*[FREDERICK AUGUSTUS MUILENBERG,
Speaker of the House of Representatives,*

*[JOHN ADAMS, Vice-President of the United States,
and President of the Senate.]*

[APPROVED, February the eighteenth, 1791.

(GEORGE WASHINGTON, President of the United States.)

*DEPOSITED among the ROLLS in the OFFICE of the SECRETARY
of STATE.*

[Signature] Secretary of State.

THE ACT WHICH ADMITTED THE FIRST NEW STATE

Although the political isolation that exists between the States is quite complete, nevertheless a State cannot treat another State precisely as if it were a foreign country. Under the Constitution, there are several important interstate obligations:

(1) If one State recognizes a certain law or certain records, as of wills or deeds, as valid, all other States must recognize them as valid (115). If the authorities in Maine recognize a certain law of the State as being a good law, the authorities of all the other States must recognize that law as being good *in Maine*, although the law need not be obeyed in the other States.

(2) A State must accord to a citizen of another State who comes within its borders all the rights and privileges that it accords to its own citizens (116). For example, a citizen of Pennsylvania can go into Illinois and move about and transact business on the same terms with the citizens of the latter State.

(3) When a criminal flees from a State in which he has committed a crime into another State, the governor of the latter State is charged with the duty of assisting in the arrest of the criminal and in his return to the State in which the crime was committed (117). If, however, the governor of a State for any reason, good or bad, should refuse such assistance, there is no way to compel him to perform his duty. Here the Constitution has issued a mandate with no provisions for its enforcement. The surrender of fugitive criminals, therefore, seems to rest quite as much upon interstate comity and courtesy as upon constitutional necessity. In practice governors seldom fail to do their duty in arresting and returning fugitive criminals.

Although a State is permitted, under the Constitution, to regulate its own affairs quite without regard to its sister States, yet, as a matter of fact, no State does this. Every State, in framing its constitution and making its laws, has been influenced consciously or unconsciously by the social

and commercial conditions existing in neighboring States. This interstate influence is making laws and customs throughout the United States more and more uniform.

Preservation of the Federal System. We now understand that the line dividing the authority of the federal government from the authority of the State is clearly drawn in the Constitution of the United States. On one side of the line are the powers relating to matters that concern the welfare of the whole body of the American people. These are the federal powers. On the other side of the line are those powers that relate to matters of local and individual concern. These powers belong to the State. If our federal system is to be preserved, this line must never be obliterated. The State must not cross over the line and trespass upon the authority of the federal government, thus impairing the glory and greatness of the Union; while the federal government must also keep within its proper bounds, and refrain from usurping the powers of the State and becoming an enemy of local self-government and individual rights.

Whether the federal relations established by the Fathers will be maintained, or not, will depend upon the intelligence, vigilance, and political sagacity of the people. If Americans hold their representatives to a faithful observance of the Constitution, there is little danger that either the State or the federal government will be robbed of its rightful powers. If, however, voters are careless and indifferent, it is likely that the federal government will draw to itself more and more power, and that the arm of the State will wither. This is the direction in which things seem to be moving at the present time. Is this tendency not regrettable? Do we want the forty-eight States to be thrown into a melting-pot and changed into a homogeneous political mass forming a consolidated nation like France, where the powers of the central government extend to the smallest affairs of the smallest village?

It would seem that we are vastly too large to be governed in any other way than in the federal way. The government at Washington can hardly be trusted to issue orders to our governors and to the mayors of our cities, directing them as to how they shall conduct their affairs. If we do not preserve local self-government we shall hardly escape federal tyranny. "If the day," says John Fiske, "should ever arrive (which God forbid!) when the people of the different parts of our country shall allow their local affairs to be administered by prefects sent from Washington, and when the self-government of the States shall have been so far lost as that of the departments of France, or even so closely limited as that of the counties of England—on that day the political career of the American people will have been robbed of its most interesting and valuable features, and the usefulness of this nation will be lamentably impaired."

QUESTIONS ON THE TEXT

1. Indicate in general terms the powers of the States.
2. What is the nature of the reserved powers of the States?
3. For what reason is there likely to be conflict between States and federal authority? How are disputes between the State and the federal government settled?
4. What is the nature of the republican form of government to which a State is entitled?
5. What interstate relations are established by the Constitution?
6. How may you distinguish State authority from federal authority?
7. Why is it important that existing State and federal relations be preserved?

SUGGESTIVE QUESTIONS AND EXERCISES

1. On the large chart suggested in the preceding chapter insert in circle *B* the most important State powers.
2. Prepare a ten-minute paper on "Our State." (Sketch briefly the history of your State; write of its size, its population, its industries, its resources, its schools, its cities, its great men.)
3. Show how neighboring States have influenced your State in reference to (a) government, (b) religion, (c) occupation, (d) education, (e) political parties.
4. Of the following matters name those that come within the authority of the federal government: (a) punishment for robbing

the mails; (*b*) regulation of the speed of trains; (*c*) the suppression of a riot; (*d*) punishment for robbing a store; (*e*) the construction of a sewer; (*f*) the building of a school-house; (*g*) the construction of a battle-ship; (*h*) the repairing of a road; (*i*) the defense of a coast; (*j*) the improvement of a harbor; (*k*) the granting of a pension to a soldier; (*l*) the borrowing of money for a public purpose; (*m*) the annexation of territory; (*n*) the maintaining of a military academy; (*o*) the protection of the public health; (*p*) the organization of a company of militia; (*q*) the controlling of the movements of a flying-machine; (*r*) the protection of an author in his rights; (*s*) the regulation of the descent of property; (*t*) the construction of a canal from Cleveland, Ohio, to Columbus, Ohio; the construction of a canal from Columbus, Ohio, to Chicago; (*u*) the regulation of the use of dynamite; (*v*) the regulation of wireless telegraphy; (*w*) the regulation of wireless telephony; (*x*) the regulation of the speed of automobiles.

5. What power (or powers) now exercised by the State would you have transferred to the federal government? Is there any power now exercised by the federal government that ought to be transferred to the State?

6. What are the terms upon which a new State may be admitted to the Union (118)?

TOPICS FOR SPECIAL WORK

1. The Limitations of the State: Hinsdale, 243-247.
2. The Nature of the Union: Johnson, 334-343.
3. The Constitution and the New Federalism: Kaye, 76-82.
4. The States and the Federal Government: Kaye, 89-92; Munro, 389-404.
5. The Constitutional Basis of State Government: Beard, 428-457.

IX

LOCAL GOVERNMENT

When studying the distribution of powers under our federal system, we found (p. 55) that the localities—the counties, cities, towns, villages, townships—are controlled by the State. Since these minor divisions are so important an element in our political framework, and since the affairs of the locality touch the citizen so directly and so constantly, we shall do well at this point to consider the broad aspects of *local government*. What powers are granted to the local government? In what relation does the locality stand to the State? What policy should the State adopt when dealing with the local governments?

Division of the Powers of the State. We have learned how governmental power is broadly divided between the federal government and the State. There is a further division to be studied. The State does not exercise directly, through the agency of State officers, all the powers that belong to it, but shares its powers with inferior governments, which it creates, and which it equips with proper officers. These lower governments are called local, because they transact the public business of a locality only. The local governments that are found in all the States are counties and municipal corporations (villages, boroughs, towns, cities). In many States there is an additional local government known as the township—"town" it is usually called in New England.

The powers granted to the local governments are not the same in all the States, yet it may be said that as a rule the local government does the following things:

- (1) It preserves the peace and good order of the locality.
- (2) It supports the public schools.
- (3) It cares for the public health.

- (4) It helps the poor and unfortunate.
- (5) It assesses and collects taxes.
- (6) It opens and repairs roads and paves streets and builds bridges.
- (7) It establishes and supports courts of lower grades.
- (8) It erects public buildings.

It should be clearly understood that the local government is in all things dependent upon the State. The relation of a city, for example, to the State is entirely different from the relation that exists between the State and the Union. The powers of the State are its own; the federal government cannot subtract from them nor add to them. The powers of a city are not its own; the State gives them and the State can take them away. What the State creates it can govern according to its own will. The State can deprive local officers of their positions and administer the affairs of the locality—the county, or city, or whatever it may be—with officers of the State government.

While it is true that the State has the power to send its officers into a locality and govern it without consulting its citizens, yet as a matter of fact the State does not use its power in this way. In practice the State allows the people of a community to elect their local officers and to conduct their local affairs largely according to their own notions. Any other policy would be contrary to the political instincts of the American people, and would excite the most bitter resentment. A denial of the right of local self-government would be an attack upon the principle of democracy. Where the people do not have their will in respect to their schools and roads and the other affairs of local concern, they do not enjoy fully the blessings of popular government.

Three Grades of Government. Thus everywhere in the United States there are three grades of government in operation: (1) The federal government defends us against

foreign foes, attends to foreign affairs, delivers and collects the mails, regulates the currency and foreign and interstate commerce, maintains federal courts to try cases that come under federal jurisdiction, and collects the federal taxes. The federal government does these things in its own way with its own officers, and the people of the locality and of the State are not consulted. (2) The State government is responsible everywhere within its borders for the following things: for the protection of life, liberty, property, and reputation; for the punishment of crime; for the maintenance of justice; for the holding of elections; for the regulation of domestic and business relations; for the collection of State taxes; for the fulfilment of the constitutional guaranties contained in the bill of rights. The State is responsible for these things, and it does not surrender its power in reference to them. It either attends to them through the agency of its own officers, or it compels the local government to attend to them. (3) The local government attends to the matters enumerated in the preceding section.

How Local Governments Receive Their Powers. There is not a word in the federal Constitution about local government. The locality receives all its powers from the State constitution and the State legislature. Counties and townships are usually organized and governed under general laws passed by the legislature. All the counties and townships within the State have substantially the same kind of government and the same powers.

The government of cities and boroughs and villages is accomplished through the agency of municipal corporations. A *corporation* is a group of individuals authorized by law to act in respect to certain specified matters as one individual; or it is a group of natural persons authorized to act as one artificial person. This artificial person, known as a corporation, lives forever, unless the power (the law) that created it chooses to destroy it or to

limit the period of its existence; it has a name, and under this name it can sue and be sued in the courts like a natural person; with certain restrictions, it can acquire property and borrow money like an ordinary person; it can make such by-laws (local laws) as may be necessary to regulate its internal affairs, and these by-laws have all the force of law.

Corporations are either private or public. A *private* corporation is one organized for the private profit or pleasure of the individuals who secure the incorporation. Railroads, banks, colleges, clubs, are examples of private corporations. *Public* corporations are organized for political purposes, for the promotion of the public welfare. Counties and towns and townships are public corporations in so far as they are permitted to hold property and to sue and be sued. The most conspicuous example of a public corporation, however, is the municipal (*municipium*, town) corporation. Wherever there is a community with a compact population requiring special governmental powers, the State gives this community a name and boundaries, organizes its citizens into a municipal corporation, and grants to it the right of municipal or local self-government.

The written instrument that specifies the rights and privileges of a corporation is its *charter*. The charter of a municipal corporation names the municipality, describes its boundaries, and states in great detail how the local government is to be organized, and what powers it is to exercise. The powers that a municipality enjoys under its charter may be such as are granted to municipalities under a general law of the legislature, or they may be specific powers granted by a special law.

The State legislatures, through their power to grant charters to municipalities, have, in most of the States, an almost complete control over cities, and they exercise their power freely. They do not hesitate to change or amend a municipal charter or to revoke one altogether; they will reserve to themselves or will give to the governor the ap-

pointment of officers whose duties are of a strictly municipal character; they will raise the salaries of city officers without consulting the city authorities; they will even deprive a regularly elected mayor of his office and give it to another. The habit of State interference with local matters is at times so strong as to threaten seriously the highly prized principle of local self-government.

Municipal Home Rule. In some States the constitutions are attempting to protect municipal rights by giving to the people of the city the privilege of framing their own charter, just as the people of the State frame their own constitution. Under this policy of municipal home rule, the city would stand in somewhat the same relation to the State as the State does to the Union. The city, the State, and the nation would each be supreme in respect to those things that concern itself.

This is an attractive reform, but it suggests serious difficulties. Under our present system the State, within the limited sphere of its action, is supreme: it may educate its youth illy; its laws may be unwise, its courts corrupt; and yet the federal government may not interfere. Shall we make the city as independent of the State as the State is of the federal government? We are told that the care of the streets, parks, sewerage, city lighting, water supply, the fire-extinguishment system, and many details connected with sanitary and police administration should be placed absolutely under the control of the city. But suppose the lighting of a city is so poor that criminals thrive in the darkness, or that the police department is so inefficient that the peace and security of the city are threatened—shall the State not interfere? Shall it make such a surrender of its rights as will prevent it from entering such a city and lighting the streets properly and improving the police service? Such questions as these are constantly arising in connection with municipal government and they indicate how difficult it is to determine pre-

cisely where State authority should end and local authority begin.

It is perhaps impossible to draw a distinct line between State and local control; but experience makes it plain that, while the State should encourage the principle of municipal "home rule," it should at the same time place necessary limitations upon the power of the city. Among these limitations are the following:

(1) The State should not surrender entirely to the city its control over elections, especially over those elections at which State officers are chosen.

(2) The State should not make to the city such a surrender of the power of taxation as to result in crippling the revenues of the State.

(3) The borrowing power of the city should be carefully restricted.

(4) The State should reserve for itself the police power, that is, the power to pass laws relative to the public health, the public safety, and the public morality.

(5) The State should demand that the city maintain a certain standard of public education.

In general, the State should keep such a grasp upon all its parts—counties, townships, and municipalities—as will prevent a part from operating against the welfare of the whole.

QUESTIONS ON THE TEXT

1. How are the powers of the State divided? Name the things usually done by the local government.

2. What is the usual policy of the State in reference to the exercise of its control over the local government?

3. Give an account of the three grades of American government.

4. From what two sources does the locality receive its powers? How are counties and townships governed?

5. What is a corporation? What are the attributes of a corporation? What is a private corporation? What is a public corporation?

6. What is a municipal charter? How do legislatures usually act in respect to the government of municipalities?

7. What is meant by "municipal home rule"? What difficulties lie in the way of municipal home rule?

8. Give five rules for the guidance of the State in its dealing with cities.

SUGGESTIVE QUESTIONS AND EXERCISES

1. What are the provisions of the constitution of this State in reference to local government? Can the legislature pass a special law for the government of a city? Have the cities of the State the right to frame their own charters? If not, ought they to have this right?

2. In what way could the present constitution of this State be amended so as to give cities better government than they now enjoy?

3. What is the difference between a charter and a constitution?

4. In a city, which of the following services should be rendered by the State and which by the local government? (*a*) the regulation of the sale of intoxicants; (*b*) the paving of the streets; (*c*) the regulating of the employment of children; (*d*) the granting of franchises (p. 268) to street railways; (*e*) the constructing of sewers; (*f*) the holding of courts of justice; (*g*) the educating of children; (*h*) the lighting of streets; (*i*) the keeping of the peace; (*j*) the suppression of a riot; (*k*) the regulation of the use of arms; (*l*) the construction of waterworks; (*m*) the collecting of taxes; (*n*) the regulating of the hours of labor; (*o*) the operating of gas-works; (*p*) the inspecting of steam-boilers; (*q*) the inspecting of factories with the view of protecting the health of employees; (*r*) the maintaining of libraries; (*s*) the maintaining of parks; (*t*) the extinguishing of fires.

5. In Ohio, California, Michigan, Colorado, Minnesota, Missouri, Oregon, Oklahoma, and Washington the plan of home rule for cities has been adopted. Can you name any other home rule States?

6. Name all the kinds of local government found in this State.

TOPICS FOR SPECIAL WORK

1. Municipal Home Rule: Howe, 76-85.

2. National Parties in Local Elections: Jones, 327-330.

3. Positions of the City in the State: Goodnow and Bates, 88-120.

4. The City and the State: Howe, 66-75.

5. Relation of Local Government to Central Government: Gettell, 424-425; Munro, 541-545.

6. The American City: Munro, 527-587.

X

PARTY GOVERNMENT

A popular government is not a machine that is kept running by its own force and momentum. Elections can not be held simply by fixing a date for holding them. Suitable officers can not be obtained by merely prescribing their qualifications. Powers enumerated in a constitution have no meaning until they are actually brought into exercise. A government, whether large or small, whether federal or State or local, must be operated by a practical human agency working to accomplish definite things. In the United States this agency is the political party; we accomplish our political purposes by means of *party government*.

What Political Parties Are For. "A political party," said Edmund Burke, "is a body of men united for promoting by their joint endeavors the national interest upon some particular principle on which they are all agreed." Among a free people a division of the voters into parties is inevitable, for there are always differences of opinion as to how public affairs shall be managed. Shall the county have a new court-house? Shall the State compel parents to send their children to school? Shall the federal government own and operate the railroads? Such questions are bound to divide men into opposing groups. Each group will organize and attempt to seize the reins of government. For a government must act through the agency of men as well as through the agency of laws, and if men want to accomplish their political purposes, they must not only have the laws on their side, but they must also have the officers of government on their side. The surest way to get them on their side is to win the support of public opinion and persuade voters to elect officers who are favorable to the proposed measures or policies. And this is precisely what political parties are for. Men holding the

same political views organize as a party and work together for the purpose of electing men who, when in office, will carry into effect the wishes of the party.

Origin of Political Parties in the United States. No sooner was the Constitution adopted than men began to disagree as to the amount of power the new federal government was to have. The discussions that followed brought into collision two forces, which have never ceased to operate in American politics. One of these forces tends to carry power from a lower grade of government to a higher. When an affair of local government is badly managed, there are always people to suggest that that affair be placed under the control of a larger and more central government. If the township does not manage its affairs well, they would take its powers from it and give them to the county; if certain functions of the county are not faithfully performed, they would have them performed by the State; if the State is remiss in anything, they would place that thing under the control of the federal government. This tendency to take power from the local and lodge it with the central government has been called the *centripetal* force of politics.

In opposition to this centripetal, or centralizing, force are the people who, jealous of the powers of government, desire to limit them. These would lodge as little authority as possible with the central government, and reserve as much as possible for the locality. They would have no interference with the individual, except such as is necessary for the peace and safety of society. This tendency to restrict the power of the central government, and enlarge that of the locality and of the individual, has been called the *centrifugal*, or decentralizing, force in politics.

The discussion of the political questions that arose when the Constitution was put into operation offered an excellent opportunity for the free play of the centralizing and the decentralizing forces. Those who believed in a strong

central government advocated a liberal interpretation of the "elastic clause" (p. 51). Foremost among these was Alexander Hamilton. That great man thought that Congress has a right to pass laws on any subject that relates to the general welfare and that requires the application of money. It is easy to see that, under such an interpretation, many things could be done by Congress which could not be done under either the enumerated or the implied powers of the Constitution. For example, under such a construction, Congress would have the right to take charge of the public schools. Those who held centripetal notions respecting government rallied around Hamilton and formed the Federalist party, or the party of *broad construction*.

The centrifugal tendencies of the time were reinforced by the genius of Thomas Jefferson. That statesman was jealous of the power of the federal government. He was afraid the central authority would encroach upon the rights of the States and of individuals. In order to prevent this, he advocated a *strict construction* of the Constitution. He believed that the only proper subjects for the action of Congress were those enumerated in the Constitution. If a new power should be desirable, he believed it should be secured by way of amendment and not by way of interpretation. Those who held the same views as Jefferson joined with him and organized the *Democratic-Republican* party, or the party of *strict construction*.

The line that divided the party of Hamilton from the party of Jefferson may be clearly traced throughout our history as the dividing line of the two great parties, and it is the dividing line to-day. The Republican party is descended from the Federalists, and is the party of broad construction; the Democratic party comes in unbroken succession from the Democratic-Republican party, and is the party of strict construction.

Political Parties of To-day. The line that divided the party of Hamilton from the party of Jefferson has never

been wholly erased. It can be clearly traced at every period of our history, and even to-day it is distinguishable as the line of cleavage between the two parties that are the chief contestants for power. The Republican party is descended from the Federalists, and may usually be relied upon to construe the Constitution broadly and magnify the federal power. The Democratic party comes in unbroken succession from the Democratic-Republican party of Jeffersonian times. It professes adherence to the doctrines of its founder, and as a rule it may be relied upon to place a rather strict interpretation upon the Constitution.

It must not be thought, however, that the Democratic party is always the enemy of broad construction, or that its adversaries always oppose strict construction. For the principles of a great political party are quite elastic. In order to get votes a party will often cut away from its historic moorings. For example, in 1867 the Conservative party in England ignored its past and advocated an extension of the suffrage, while the Liberal party turned right about face and opposed the extension of the suffrage. This seems to be the way of all political parties once they have grown powerful: for the sake of votes and victory they will adapt their principles to the issues of the day. We must not, therefore, expect to find either the Democratic party or the Republican party steering a perfectly straight course. Each of these parties is a mighty organization, and the leaders of each are striving for supremacy. Since victory depends upon votes, it happens not infrequently that the party sails are trimmed to the popular breeze, regardless of the teachings of the ancient political faith.

The Democratic and Republican parties are the chief but not the only contestants for power; for, in addition to the two great organizations, there is usually in the political field one or more smaller parties. Of the minor groups the Socialist party is the largest and most important. This

party was organized with the view of furthering the cause of Socialism (p. 230). Since 1900 it has regularly conducted a campaign for the Presidency.

Throughout our history new or "third parties," as they are often called, have been organized from time to time as new political issues have arisen. But to organize a third party and carry it to complete victory is a task that has never been accomplished. We have had many "third parties," but the history of them all is the same. "At the beginning, a new issue, which neither of the old parties has the courage to face resolutely, leads a certain number of persons to separate themselves from the organization with which they have previously acted and to form a new party. The movement originates with the people and not with the politicians, and the candidates nominated by the new party are new men. As soon as the movement has developed enough strength to make the votes it can command an object of envy to the weaker of the old parties, a period of coquetry begins. At first there is trading for positions on a fusion ticket by two independent parties, then there is a gradual drawing together of the two parties with nearly identical platforms [principles] and a common ticket, and in the end a complete absorption of the third party by its more powerful ally."¹ When the absorption of a new issue by an old party results in success, as it frequently has resulted, the people attain their object much more quickly than they would by the tedious process of building a new party.

Political Parties and the Individual. Political parties are voluntary associations formed outside of the pale of government. They are not formally recognized as agencies of government, and until quite recently they have had no legal existence whatever. Nevertheless ours is a government by party: no important policy of government, whether federal, State, or local, can be adopted without

¹ Stanwood, "History of the Tariff," Vol. II, p. 361.

the sanction of a party, and it is seldom indeed that a person is elected to an important office who has not first received the indorsement of a party. Thus far no one has been able to show how popular government on a large scale can be conducted without the aid of parties.

Since we must have parties and must accomplish our political purposes through them, the relation of the individual to his party presents itself as a serious problem of citizenship. For reasons known to himself, a man has been acting with a certain party: under what circumstances may he as a good citizen leave his party? His entrance into the party was a matter of choice, and he is as free to withdraw from it as he was to enter it. He is under no legal obligation to remain in his party, but is he not under a moral obligation to withdraw from it when his judgment or his conscience tells him that its course is wrong and that the course of another party is right? When party loyalty leads a man into voting for dangerous measures and dishonest candidates, he is not a free citizen, but is the victim of a despotism. Party loyalty is a good thing, but loyalty to the interests of one's country is an infinitely better thing; and when a man is convinced that his party is pursuing an unpatriotic course he should break away from it, despite the cracking of the party lash.

QUESTIONS ON THE TEXT

1. For what purpose are political parties organized?
2. Describe the centrifugal and centripetal forces of politics.
3. What were the political views of Alexander Hamilton? of Thomas Jefferson?
4. What two parties are the chief contestants for power? What can you say of the elasticity of party principles?
5. Name the most important of the minor parties. How are new issues absorbed by the great parties?
6. In what relation does the political party stand to government?
7. In what relation does the individual stand to his party? When should this relation be severed?

SUGGESTIVE QUESTIONS AND EXERCISES

1. State whether a Democrat who was guided solely by the traditions and principles of his party would favor or oppose: (a) the control of railroads by the federal government; (b) the issue of money by State banks; (c) the management of elections by the federal government; (d) the control of telegraph lines by the State government; (e) the planting of colonies by the federal government; (f) the support of the public schools by the federal government; (g) the ownership of mines by the State government; (h) the control of cities by the federal government; (i) the coöperation of the federal government with local government in road-building.

2. What influences besides party principles lead one to vote for this or that party?

3. Give reasons why it is best that the party in power should have opposition even though its principles are right.

4. Compare the last national Democratic platform with the last national Republican platform, and point out the chief difference in the principles of the two parties.

5. How many people voted for the Democratic party in the last presidential election? How many for the Republican party? If the Republican vote for that year should be represented by a line one yard in length, how long would be the line that should represent the Democratic vote? How long the line representing the Socialist vote?

6. Name a few of the great politicians who have figured in the history of this country. Who are the great politicians of the present time?

7. What is a statesman? a partizan? a trimmer? a mugwump? an independent? a henchman?

8. Distinguish between a "boss" and a leader.

9. Define *faction*, *cabal*, *junto*, "*ring*," *clique*.

10. Under what circumstances is a man justified in deserting his party?

11. Give an account of the organization and purposes of the Non-Partizan League. What does the word *non-partizan* mean? the word *bi-partizan*?

TOPICS FOR SPECIAL WORK

1. The Political Party: Holcombe, 165-202.

2. The Necessities of Strong Parties in the United States: Jones, 20-27.

3. Party Government in England and the United States Contrasted: Jones, 1-11.

4. Functions of Political Parties: Gettell, 401-404.

5. Political Parties: Munro, 312-329.

6. Origin of Parties in the United States: Beard, 103-108.

XI

CIVIL LIBERTY

We have now given an account of the several devices by which our political system is operated, and have described the nature of the power that has been assigned to each of the three grades of government. For what purposes have these ingenious devices been invented? Why have these nice adjustments of power been made? In order that we may be secure in our civil liberty. In a free country this is a question in which every citizen should be deeply concerned, for liberty is one of the greatest things in the world.

Civil Liberty Defined. Civil liberty is the liberty that a man enjoys in civil society; it is liberty under law. The desire for freedom is implanted in every human breast. History is largely an account of man's struggle for freedom, and the greatest lesson that history has for us teaches that man ought to be free. But there must be limits to his freedom. Where there is government there must be restraints upon the will and upon the desires. The only liberty that is possible in society is civil liberty, which has been defined as natural liberty so far restrained (and so far only) as is necessary and expedient for public good. The restraints regarded as necessary and expedient for the public good are not the same in all countries. Civil liberty, therefore, is not everywhere the same: in Germany it is one thing; in France it is another thing; and in the United States it is still another thing.

Growth of American Civil Liberty. The rights of our citizenship seem to come to us, like the air and the sunshine, as a matter of course; but it seemed otherwise to those ancestors of ours who secured these rights. To them civil liberty came as the result of hard-fought battles. When we read the bill of rights in one of our constitutions,

where our liberties are itemized, our hearts would throb with gratitude did we know the suffering and the sacrifice that each item has cost. The history of American liberty can not be given here in full, but we must find room for its outlines:

I. *The Great Charter.* The story of our civil liberty may conveniently begin with an account of the Great Charter. King John of England had been acting in a tyrannical and unpatriotic way, and the leading men of England, in order to protect themselves from his cruelty and oppression, met (1215 A. D.) at Runnymede, near London, and declared the rights of Englishmen in a formal document which they compelled the King to sign. This document was the famous *Magna Carta*. "One copy of it," says Green, "still remains in the British Museum, injured by age and fire, but with the royal seal still hanging from the brown shriveled parchment. It is impossible to gaze without reverence on the earliest monument of English freedom, which we can see with our own eyes and touch with our hands—the Great Charter, to which, from age to age, patriots have looked back as the basis of English liberty."

Since the Great Charter is the basis of English liberty, it is the basis also of American liberty. It consists of a preamble and sixty-three clauses. The clauses of lasting interest are the following:

(1) "Common Pleas shall not follow the king's court, but shall be held in some certain place." (John had been dragging suitors for justice about from post to pillar, causing them great inconvenience and expense.)

(2) "A freeman shall be fined for a small offense after the manner of the offense; for a great crime after the heinousness of it." (Making the punishment suit the crime.)

(3) "No scutage [land tax] or aid [contribution] shall be imposed except by the common council of the nation." (No taxation without representation.)

(4) "No freeman shall be taken or imprisoned or dis-

seized, or outlawed, or exiled, or in any way destroyed; nor will we go upon him, nor will we send upon him, unless by the lawful judgment of his peers, or by the law of the land." (Due process of law and trial by jury.)


(5) "To none will we sell, to none will we deny or delay right or justice." (Habeas corpus.)

(6) "The city of London shall have all its ancient liberties and free customs, and so of all other cities, boroughs, towns, and ports." (Local self-government.)

Swift and impartial justice, punishment according to the offense committed, taxation according to the wishes of representatives of the people, trial by jury, habeas corpus, local self-government—these are the grand features of the Great Charter. "To have produced it, to have matured it, to have preserved it, constitute the immortal claim of England upon the esteem of mankind. Her Bacons and Shakespeares, her Miltons and Newtons, with all the truth which they have inspired, are of inferior value when compared with the subjection of men and of their rulers to the principles of justice, if indeed it be not more true that these mighty spirits could not have been formed except under equal laws, nor roused to full activity without the influence of that spirit which the Great Charter breathed over our forefathers."¹


II. *The Petition of Right.* It is easy to declare human rights, but it is difficult to defend and preserve them. John's successors confirmed the Great Charter whenever they were compelled to do so, but they violated its provisions whenever they dared. During the fifteenth and sixteenth centuries the aggressions of royalty threatened to make Magna Carta a dead letter; but in the seventeenth century the spirit of English liberty revived. When the Stuarts began to trample under foot the most precious rights of Englishmen, the people revolted. A long and bloody conflict followed. One king lost his life, another his crown, and thousands of citizens fell in civil strife.

¹ Mackintosh, "History of England," Vol. I, 222.



Out of the contests there were evolved two liberty documents of the highest importance. The first of these is the *Petition of Right*, which Parliament sent to Charles I in 1628 and compelled him to sign. This famous constitutional law—for it, like the Great Charter, must be regarded as part of England's constitution—recites the rights of the people, and protests against the wanton infringements which were being made by the King. Among the misdeeds of the King were the quartering of troops in the homes of private citizens. The petition prays: "That your majesty will be pleased to remove said soldiers and mariners, and that your people may not be so burdened in time to come." Another complaint refers to the practice of putting citizens to death after a trial conducted by the soldiery. The petition prays: "That commissions by martial law be revoked and annulled." The *Petition of Right*, therefore, declared anew formally the ancient rights of Englishmen, and also enriched their civil liberty in two particulars: first, it forbade the quartering of troops upon private citizens; and, second, it put an end to the trial of private citizens by military courts.

III. *The Bill of Rights*. No sooner had the Cromwellian power been overthrown and the old monarchy restored under Charles II than the perversity of the Stuart house renewed itself. James II attempted to establish a permanent despotism, but he was driven from his throne before his purpose was accomplished. When his successor, William III, was invited to be king, Parliament, as an act of precaution, declared (1689) the conditions upon which the crown was to be held. This declaration, known as the *Bill of Rights*, was the second liberty document produced by the conflict between the Stuarts and the people, a document that has been called "the third great charter of English liberty, and the coping-stone of the constitutional building." The most important of its declarations are the following:

- (1) That laws shall not be suspended or repealed, and
- 

that taxes shall not be levied, without consent of Parliament.

(2) That the right of petition shall not be denied.

(3) That a standing army shall not be kept in time of peace.

(4) That subjects shall not be deprived of the right of carrying arms.

(5) That freedom of speech and debate in Parliament shall not be impeached or questioned in any place out of Parliament.

(6) That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

(7) That Parliament ought to assemble frequently.

IV. *The Declaration of Independence.* The rights won in England accrued, of course, to the English colonists in America. When the time for independence arrived, the Americans had several important items to add to the list of human rights. These they announced in the Declaration of Independence. They declared:

(1) That all men are equal.

(2) That governments derive their just powers from the consent of the governed.

(3) That for good reasons the people may abolish the old form of government and institute a new form.

In these three propositions are wrapped up the whole doctrine of democracy. In them we see equality before the law, universal suffrage, democratic government, and constitutional conventions. When we consider the world-wide influence of these three declarations we must regard them as the greatest enlargement of civil liberty recorded in the history of politics.

V. *State Constitutions.* When the people of the revolting colonies were ready to begin government on their own account, the Great Charter, the Petition of Right, the Bill of Rights, and the Declaration of Independence served as texts for a new and complete declaration of American civil

We hold these truths to be ^{self-evident,} ~~and~~ ^{that} all men are
 created equal, & ~~independent~~ ^{they are endowed by their creator with ~~unalienable~~}
~~unalienable~~ ^{rights, that} ~~rights, that~~ ^{are} ~~unalienable~~ ^{unalienable}
 life, & liberty, & the pursuit of happiness; that to secure these, ^{rights} ~~rights~~, go-
 vernments are instituted among men, deriving their just powers from
 the consent of the governed; that whenever any form of government
~~shall~~ becomes destructive of these ends, it is the right of the people to alter
 or to abolish it, & to institute new government, laying it's foundation on
 such principles & organising it's powers in such form, as to them shall
 seem most likely to effect their safety & happiness. prudence indeed
 will dictate that governments long established should not be changed for
 light & transient causes: and accordingly all experience hath shewn that

Fac Simile of a Portion of the Declaration of Independence showing Jefferson's handwriting.

liberty. This declaration was made in the State constitution of the newly formed States. If you will examine the bill of rights in any State constitution—the newer States have fashioned their constitutions after those of the older States—you will find that it declares the rights affirmed in the three great English liberty documents and in the Declaration of Independence. If it does more than this it simply adds several additional rights that have been evolved from American experience.

VI. *The Federal Constitution.* We have seen that the first ten amendments were hurriedly added to the Constitution as a check upon the power of the federal government. The first eight of these amendments bear a strong resemblance to the bill of rights of a State constitution, and are regarded as the bill of rights of the federal Constitution. It ought to be clearly understood, however, that the rights declared in these amendments do not belong to the American citizen unless they are also declared in the constitution of the State in which the citizen lives. The federal government cannot deprive a citizen of any of these rights, but the State can. For example, Congress cannot abridge the freedom of speech, but a State legislature can do so if the State constitution does not forbid. The federal government can not guarantee the rights that the Constitution forbids it to infringe. It is to the State constitution that we must look for most of the positive guaranties of our civil liberty.

Constitutional Liberty and Its Preservation. Thus it is seen that civil liberty in America means constitutional liberty. In the constitutions we find set down in black and white precisely the rights we are to enjoy. The constitutions, however, do not create civil liberty. Liberty is not an artificial creation of a convention. It is a divine gift bestowed only upon those who make themselves worthy of it by being true to the nobler impulses and longings of their nature. All the constitution can do is to give liberty a voice. It states in plain words the rights that the people

claim. When rulers are tempted to act tyrannically, the solemn prohibitions of the constitution bid them pause; when the majority is tempted to ignore the rights of the minority or of the individual, the words of the constitution stare it in the face. If people or rulers violate the bill of rights, then the constitution is a mockery and civil liberty does not exist.

Constitutions do not create rights, nor do they preserve them. We have seen that American civil liberty is the fruitage of many centuries of costly and patriotic endeavor. As it has been acquired, so will it be maintained. The preservation of human rights will always depend upon the watchfulness and zeal of those who love freedom. If we do not love freedom well enough to fight for it, if we prefer the quietude of despotism to the boisterousness of liberty, we may be sure that the lovers of power will sooner or later fasten a despotism upon us.

QUESTIONS ON THE TEXT

1. Define civil liberty.
2. What is the Great Charter? What are its important provisions?
3. What is the Petition of Right? Name its most important provisions.
4. What is the Bill of Rights? Name its most important declarations.
5. What great principles of democracy are declared in the Declaration of Independence?
6. Of what is the bill of rights in the State constitution composed?
7. What is the origin of the bill of rights of the federal Constitution? How does this differ from the bill of rights of a State constitution?
8. Explain the statement that civil liberty is constitutional liberty.
9. How may constitutional liberty be preserved?

SUGGESTIVE QUESTIONS AND EXERCISES

1. Prepare a bill of rights for a State constitution, using Magna Carta, the Petition of Right, the Bill of Rights, and the Declaration of Independence as a basis, and after it is prepared compare it with the bill of rights of your State constitution, and with the first eight amendments of the federal Constitution.

2. Bring into the class for inspection a facsimile of Magna Carta.
3. Prepare a five-minute paper on "The Reign of John." Green's "Short History," pp. 147-156.
4. Prepare a five-minute paper on "Charles First and the Petition of Right." Green, pp. 485-495.
5. In what respects are men equal?
6. What great names are connected with the cause of American liberty?

TOPICS FOR SPECIAL WORK

1. The Principles of the Fathers: Woodburn, 1-45.
2. Liberty, Equality, Fraternity: Dole, 78-87.
3. Meaning of Civil Liberty: Gettell, 160-161.
4. Civil Liberty in the United States: Gettell, 163-165.
5. Liberty and Authority: Gettell, 161-163.

XII

CIVIL RIGHTS AND DUTIES

In the preceding chapter we learned how we came into our heritage of civil liberty. In this chapter we shall learn what the particular rights of American civil liberty are, from what source these rights flow, what persons are entitled to enjoy them, and what duties must be performed as the price of enjoying them.

Civil Rights and Political Rights. The rights flowing from American civil liberty may be divided into two classes: political rights and civil rights. Political rights are those belonging to a citizen regarded as a participator in public affairs, or as a member of the electorate (p. 10)). Civil rights are those that a person enjoys as a private citizen, as an individual. Civil rights, however, are not enjoyed by all citizens alike, for citizenship does not carry with it the whole body of civil liberty. For example, little children and incapables are citizens, yet they do not have all the civil rights.

Who Are Citizens? Who are the persons entitled to the blessings of civil liberty? Who are American citizens? This question was left in doubt by the Constitution until the adoption of the fourteenth amendment in 1868. That amendment declares (150) that "all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside." Under this definition the following have been adjudged to be citizens of the United States:

(1) All persons born in the United States, excepting the children of diplomatic agents and of hostile aliens.

(2) Children born in foreign countries whose parents at the time of their birth were citizens of the United States.

(3) Women of foreign birth married to citizens of the United States.

(4) Indians who pay taxes and no longer live in tribal relations.

(5) Naturalized persons.

Persons who do not belong to any of the above classes are aliens (*alieni*, foreigners). Aliens may become citizens by complying with the regulations prescribed by Congress for naturalization (48), the process by which foreigners lose citizenship in one country and acquire it in another. (See page 326.)

Civil Rights of State Citizenship. The American citizen finds that his rights flow from two sources: from the State and from the nation. Since each State in a large measure determines for itself the character of the civil liberty that is to be enjoyed within its borders, the rights of an American citizen are not everywhere the same. As we travel through the States our rights change every time we pass from one State into another. When the citizen of one State enters another State he has the rights of the citizens of that State (116), and those rights only. There are, however, certain civil rights that are enjoyed in every State in the Union and that may be called the civil rights of State citizenship. These are the rights guaranteed in the State constitutions. In the constitution of almost every State it is declared:

(1) That all men have the right of enjoying and defending life and liberty; of acquiring, possessing, and protecting property and reputation; and of pursuing their own happiness.

(2) That men have a right to worship God according to the dictates of their own conscience, and that no preference by law should be given to any religion, and that no

person should be disqualified for office on account of his religious belief.

(3) That trial by jury is a right inviolate.

(4) That the printing-press shall be free, and that every citizen may freely print, write, and speak on any subject, being responsible for the abuse of this privilege.

(5) That people shall be secure in their persons, houses, papers, and possessions against unreasonable searches and seizures, and that no warrant to search any place or seize any person shall issue without probable cause.

(6) That in all criminal prosecutions the accused has a right to be heard by himself and his counsel, to meet witnesses face to face, to compel witnesses who are in his favor to come to court and testify, and to a speedy trial by an impartial jury.

(7) That no person can be compelled to give evidence against himself, nor be deprived of his life, liberty, or property, unless by the law of the land.

(8) That no person for the same offense shall be twice put in jeopardy of life and limb.

(9) That all courts shall be open, and that every man shall have justice without sale, denial, or delay.

(10) That excessive bail shall not be required, nor excessive fines be imposed, nor cruel punishment inflicted.

(11) That all prisoners shall be bailable by sufficient sureties, unless for capital offenses.

(12) That the writ of habeas corpus (p. 242) shall not be suspended unless in time of rebellion or invasion.

(13) That there shall be no imprisonment for debt, unless in cases of fraud.

(14) That citizens have a right to assemble in a peaceable manner and to apply to the rulers for a redress of grievances.

(15) That the military shall at all times be kept in strict subordination to the civil power.

(16) That no soldier in time of peace be quartered in any house without consent of the owner.

Civil Rights of Federal Citizenship. The first section of the fourteenth amendment to the Constitution (150) creates a distinct federal citizenship, and provides that no State shall abridge the privileges of that citizenship. What are the privileges that a citizen of the United States enjoys and that no State can abridge? This question has been constantly asked in the federal Supreme Court since the adoption of the fourteenth amendment. The court will not undertake to enumerate all the rights arising under the amendment, but it has been declaring them from time to time as cases have been brought before it. Human rights are acquired slowly, and it may be many years before we shall know the full effect of the fourteenth amendment. At present it is possible to enumerate the following as the rights of federal citizenship: rights that flow from the Constitution, that belong to every citizen of the United States, and that can not be denied by State authority:

I. *Due Process of Law.* No person in the United States shall be deprived of life, liberty, or property without due process of law. Here is a right that no State can abridge (151) and that the federal government itself cannot deny (152). (See page 241.)

II. *Equal Protection of the Laws.* "Every person within the jurisdiction of any State, whether he be rich or poor, humble or haughty, citizen or alien, is assured of the protection of equal laws (152)—applicable to all alike and impartially administered without favor or discrimination." (*Guthrie.*) (See page 243.)

III. *Protection on the High Seas and in Foreign Countries.* A citizen of the United States, in whatever part of the world he may be, is entitled to protection against injustice or injury, and this protection is a right of federal citizenship, and is extended by the federal government.

IV. *State Citizenship.* Every citizen of the United States has a right to become a citizen of a State by a *bona fide* residence therein.

The above rights have been declared by the federal

Supreme Court to belong to every person who is a citizen of the United States. Add to these rights of federal citizenship the rights enumerated as belonging to State citizenship, and you have a list of the most important civil rights of the American citizen.

Duties of Citizenship. The duties of citizenship are always equal to its rights. If I can hold a man to his contracts, I ought (*I owe it*) to pay my own debts; if I may worship as I please, I ought to refrain from persecuting another on account of his religion; if my own property is held sacred, I ought to regard the property of another man as sacred; if the government deals fairly with me and does not oppress me, I ought to deal fairly with it and refuse to cheat it; if I am allowed freedom of speech, I ought not to abuse the privilege; if I have a right to be tried by a jury, I ought to respond when I am summoned to serve as a juror; if I have a right to my good name and reputation, I ought not to slander my neighbor; if government shields me from injury, I ought to be ready to take up arms in its defense.

Civil rights are inseparable from civil duties; the continued and full enjoyment of the former depends upon the fulfilment of the latter. Since duty is largely a matter of morals, good citizenship also would seem to be a question of morals. In the last analysis this is true. After all is said, good citizenship is reached only by the rough path of duty, and men will tread this path not because a legislature commands them, but because conscience leads them on.

QUESTIONS ON THE TEXT

1. What is meant by *civil* rights? *political* rights?
2. What classes of people are citizens of the United States?
3. Explain how the rights of citizenship may differ in the different States.
4. Enumerate the civil rights guaranteed by the State.
5. What effect did the adoption of the fourteenth amendment have upon the character of citizenship in the United States?

6. Enumerate and describe the rights that grow out of federal citizenship.

7. What is the relation of civic right to civic duty? Name some of our civic duties.

SUGGESTIVE QUESTIONS AND EXERCISES

1. Examine the Constitution for answers to these questions: (1) Can a person be compelled in a federal court to be a witness against himself (138)? (2) What are the rights of an accused person in a federal court (139)? (3) What is the rule in federal courts in reference to witnesses (140)? (4) What is the rule in reference to trial by jury (141)? (5) in reference to bail (142)?

2. Under the fourteenth amendment what are the rights of an alien? Enumerate your individual rights as these are declared in the constitution of your State.

3. Political philosophers frequently speak of *natural* rights. What is the root meaning of the word *natural*? Name the rights that you would be inclined to class as natural.

4. What is meant by the "inalienable rights" mentioned in the Declaration of Independence?

5. Joined with every right there is a duty. Name the duty that belongs to each of the rights of American citizenship.

6. Discover, if you can, a social or civil right to which there is not a duty attached.

7. Has a student a right to study so hard that his health is injured thereby?

8. Do you as minors enjoy all the civil rights? Name those of which you are deprived.

9. What does the constitution of this State say about aliens?

TOPICS FOR SPECIAL WORK

1. The Rights of Citizenship and the Fourteenth and Fifteenth Amendments: Kaye, 100-105.

2. Who are Citizens? Munro, 71-77; Beard, 160-163.

3. Acquisition and Loss of Citizenship in the United States: Gettell, 308-309.

Civics

XIII

A REVIEW

The Characteristic Features of American Government. The essentials of our political system have now been presented. If we will review the previous chapters and analyze their contents, we shall find that the characteristic features of the American government may be indicated in the following propositions:

I. *It is democratic.* It is of the people, and by them, and for them. In small matters and in great matters the wishes of the people are consulted and their will obeyed.

II. *It is representative.* In but few instances do we find the people governing as a pure democracy. They are content that the actual business of government shall be conducted by chosen officers.

III. *Its powers are sharply separated and nicely balanced.* The law-maker has his peculiar duties, and so has the executive and the judge. Each department acts independently of the others. One department may check another, but it may not control another or usurp its powers.

IV. *It is constitutional.* Public business is conducted and laws are enacted according to the plain provisions of a formal instrument. Officers of government swear to support the Constitution (128), and the people are under a solemn obligation not to violate it.

V. *It is federal.* Everywhere a central power administers the great affairs that pertain to the national welfare, while other affairs are left to be administered by the authority of the State. The federal relation is firmly established and clearly defined: the State and the federal

government working together give us a Union that can not be dissolved, and a State that can not be destroyed.

VI. *It is expansive.* It is always extending the area of its influence. A community under the protection and authority of the Union is usually admitted as a State (118) soon after it is prepared to govern itself in the American way.

VII. *It is decentralized as to local affairs.* All power does not radiate from a central source. Large authority resides in the State as well as in the Union, and local self-government lodges power in places still further removed from the center.

VIII. *It is conducted by political parties.* The popular will is ascertained by the efforts of political organizations, and the organization that gets the most votes is deemed the rightful possessor of political power.

IX. *It yields a full measure of civil liberty.* The American people are the political heirs of all the ages. Collectively they are provided with every means of resisting tyranny and injustice, while the individual citizen enjoys all the civil and political rights that can be enjoyed consistently with the safety and welfare of society.

X. *It rests upon the performance of individual duty.* The more we study the American government the plainer this truth appears. We learned at the outset that the success of democracy depends upon the conduct of individuals, and in the examination of the various political contrivances by which our government is operated we have discovered no device for relieving the individual of a personal performance of political duty.

The American Spirit. Some one has said that in every high school and college there should be a "professor of America." There is just a little boastfulness in the utterance, yet it nevertheless contains a sane suggestion. One of the chief tasks of this "professor of America" would be to train his pupils to distinguish between that which is American and that which is un-American. It should be

confessed that as far as political matters are concerned such a training would be useful. It is good to be able to stamp instantly and unerringly a political act or movement or sentiment as American or as un-American.

The student ought at this point to be able to tell what is truly American and what is not. It is American to trust the people, to have implicit faith in their ability to govern themselves; it is un-American to be always carping at democracy and predicting its downfall. It is American to recognize the moral and legal equality of men and to cherish the feelings of universal brotherhood; it is un-American to foster the spirit of aristocracy or of class hatred. It is American to give power abundantly to leaders who have been elected at the polls, for such leaders are real representatives; it is un-American to submit tamely to the rule of a self-appointed "boss." To encourage and sustain a department of government when it is contending for its rights is American; to aid in increasing the power of a usurping department is not. To accomplish a political purpose by altering the Constitution in a formal, deliberate manner is American; to act in wanton disregard of constitutional restraint is not. It is American to exalt the Union, but it is un-American to belittle the State. It is American for the State authority to uphold and maintain justice and law and order, but is un-American to give to the State government the management of affairs that are purely local. It is American to use the political party as a means of government, but to regard party as the end of government is un-American. To enjoy every right that belongs to a free and enlightened people is American, but it is un-American to insist upon a liberty that runs into license and riot.

By adhering to the American way we shall preserve the spirit of the American government, and the spirit of a government is as important as its form. "The letter killeth, but the spirit giveth life." Indeed, the form of the American government is only an outgrowth of the

spirit that animated its founders. The American fathers loved liberty and believed the people should have a controlling hand in government, and they drew the Constitution in trend with their affections and beliefs. The spirit of the fathers became the spirit of the generations that followed, and is the American spirit to-day. The form of our government indeed may change, but as for its spirit our wish for that is the same as our wish for the nation itself—*estoperpetua*.

AN EXERCISE

Classify the following as American or un-American, testing each classification by some fundamental principle: (a) The people of a State choose as their governor a man who does not reside in the State; (b) a town with a population of 500 has as many representatives as a city with a population of 100,000; (c) a man seeks a title of nobility; (d) a pupil seeks a medal awarded for scholarship; (e) the State government controls the police force of a city; (f) the State government controls the public schools of a city; (g) the local government constructs roads; (h) the federal government constructs roads; (i) the State government constructs roads; (j) a man always votes with his party; (k) a man never votes at all; (l) the legislature raises the salary of public employees; (m) the executive raises the salary of public employees; (n) a man contends that democracy is the worst form of government; (o) a man is punished for contending that democracy is the worst form of government; (p) a man was arrested for teaching the doctrine of Buddha; (q) a legislator would not receive a request to enact a certain law; (r) there was held a mass meeting at which the representatives of the people were requested to enact a certain law; (s) there was held a mass meeting at which the representatives were commanded to enact a certain law; (t) the legislature of a State passed a resolution denouncing the action of a foreign government; (u) a law provides that the governor shall appoint the county commissioners; (v) a law provides that the governor shall appoint the county judges; (w) the federal government informed the drivers of its mail-carts that they might drive at a speed greater than that permitted by the local authorities; (x) a State made forty years the age qualification for voting; (y) a State made seventeen years the age qualification for voting; (z) a law forbids adults to be on the street after midnight; (aa) a law forbids children under twelve years of age to be on the streets after 10 P. M.; (bb) a law forbids a group of men to organize as a political party.

PART II

ORGANIZATION OF THE AMERICAN
GOVERNMENT

The Form

XIV

THE ORGANIZATION OF CONGRESS

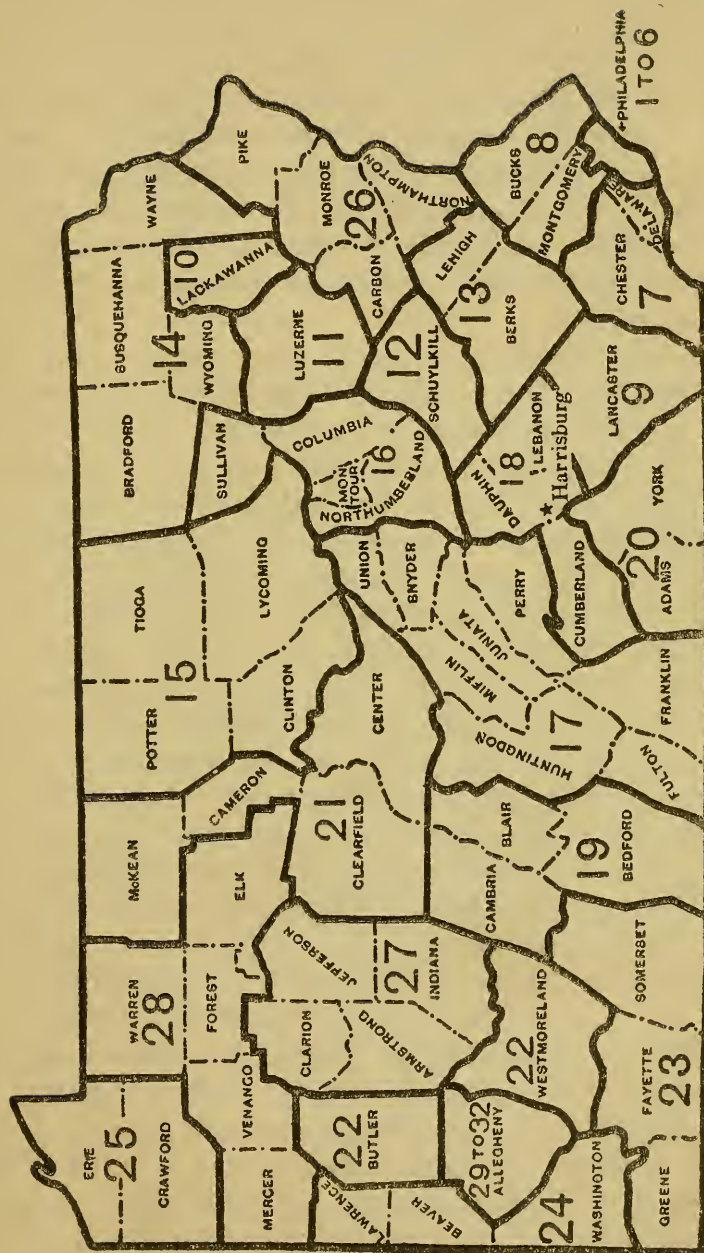
Introductory. In Part I we found the following to be the characteristic features of the American government: (1) it is democratic; (2) it is representative; (3) its powers are sharply separated and nicely balanced; (4) it is constitutional; (5) it is federal; (6) it is decentralized as to local affairs; (7) it is conducted by political parties; (8) it guarantees to citizens a rich inheritance of civil liberty. These are the foundation-stones of the American Republic.

Having learned the broad fundamental principles of our government, we may now pass to the subject of its organization. In Part II we shall study the organization of (1) the federal government; (2) the State government; (3) the local government; and (4) political parties.

The organization of the federal government is determined by the Constitution, Article I providing for the legislature, Article II for the executive, and Article III for the judiciary. We can learn in these articles of the qualifications of the principal federal functionaries, of the length of their terms of service, of the manner of their appointment or election, of their duties and privileges. Many of the facts of federal organization are stated in the Constitution so clearly and fully as to make it unnecessary to refer to them in the text. No important facts, however, ought to be neglected by the student, and he will neglect none if, in addition to answering the questions on the text, he will also answer those questions at the end of the chapters where reference is made to the Constitution.

Representation in Congress. At the time when the Constitution was framed many novel theories of government were in circulation, but fortunately the men of the Convention avoided ideal schemes. As practical statesmen they knew that if their work was to be successful they must plan for a central government that should resemble as nearly as possible the government to which the people were already accustomed. Accordingly, it was early determined by the Convention to take the existing State government, with its three departments, as a pattern for the federal structure. Having determined upon this, the next problem was to provide for a legislature. Since in all of the States but two (Georgia and Pennsylvania) the legislatures were bicameral, and since a bicameral legislature is a characteristic institution of English-speaking peoples, the sentiment for a Congress of two houses easily carried the day (2). Then arose the question: How should the States be represented in Congress? Should they be represented as they had been under the Confederation—one State, one vote? should they be represented according to wealth? should they be represented according to population? These questions gave the Convention a deal of trouble.

Some of the members wanted representation according to wealth; but the democratic spirit in the convention was too strong for them. Virginia and several large States wanted representation according to population, while New Jersey and several small States contended that each State ought to have equal representation in Congress. Here was a struggle between the large States and the small States, or, regarded from another standpoint, a struggle between the national principle and the federal principle. The national, or large-State, party insisted that the United States *was* a nation, one homogeneous political society consisting of thirteen sections or geographical districts called States, and that each of these States ought to be represented in the federal Congress according to its population. According to this view, the new government was to be national, and



Map Showing the Congressional Districts of Pennsylvania.

if the national principle had fully prevailed a government resembling the centralized type (p. 59) would have been established. The small-State party contended that the United States *were* thirteen different political societies, each the judge of its own political competency, each the political equal of another; and that, since the new government was to be a union of equals, each State should be equally represented in the legislature. The supporters of this idea desired the new government to be strictly federal and decentralized.

The debate upon the Virginia plan and the New Jersey plan continued without the prospect of a satisfactory conclusion until Connecticut came forward with this proposition: Let each State, regardless of its population, be represented in the Senate by two senators (15); in the House let each State be represented according to its population (7). The aged Franklin supported this compromise. "When a broad table is to be made," he said in his homely wisdom, "and the edges of the planks do not fit, the artist takes a little from both and makes a good joint." The Connecticut plan prevailed, and a Congress was established that was partly federal and partly national.

In the Senate the federal principle prevails, but not fully, for the two senators are not required to vote together and cast a single vote, as they would be required to do under a purely federal plan. Nevertheless, it is in the Senate that we must look for the federal element of our system, for there a State as a State is strong. The twenty-five smallest States, with their five million voters, can wield more power in the Senate than the twenty-three largest States, with their twenty million voters. In a *federal* republic there is nothing unjust in this. The decentralized features of our system can not be maintained unless we keep the States equal in the Senate.

In the House of Representatives the national principle prevails; for representatives do not appear as representing

States, but as representing people. But the House is not national in every respect, for in the event that it is required to take part in the election of a President (84) it votes by States, the representation of each State having one vote—a recognition of the federal principle. Moreover, a State must have at least one representative (10), a condition that is not required under a purely national system. Upon the whole, however, the House is national; its 435 members represent, not forty-eight States, but one hundred millions of people.

Apportionment of Representatives. When it was proposed to give to each State a number of representatives proportional to its population, the question of enumeration arose: Should every human being count one? In the Northern States there were but few slaves; in some of the Southern States there were vast numbers of them. The Northern States were unwilling to be outnumbered by having the slaves counted; the Southern States wished them to be counted. It was agreed that five slaves should be counted as three persons (8), a rule that was changed by the fourteenth amendment, which provides that in the apportionment of representatives to Congress all people except untaxed Indians shall be counted (153). The number of representatives that each State was to have until a census could be taken was fixed by the Constitution (11). After the first census was taken the apportionment was to be regulated by Congress in accordance with the results of the census.

At the establishment of the government one representative was allowed for every thirty thousand inhabitants, but with the increase of population it was found necessary to increase the ratio of representation. This was done to prevent the House from becoming unwieldy by reason of numbers. If the original ratio had been retained the House of Representatives would now consist of 3,500 mem-

bers—a body entirely too large for deliberate action. The present ratio of representation (211,877) gives a House of 435 members.

Election of Representatives. Any one who is qualified to vote for members of the more numerous branch of the State legislature is qualified to vote for a Representative in Congress (4). The members of the House are elected by a direct vote of the people. For more than half a century the States were allowed to elect their Representatives in their own way; but in 1842 Congress, exercising its power (24), ordered that when a State was entitled to more than one Representative, the Representatives should be elected by districts composed of contiguous territory; that the number of these Congressional districts should be equal to the number of Representatives apportioned to the State; that no district should be entitled to more than one Representative. The division of a State into Congressional districts is left with its legislature. The districts may conform to such boundaries as the legislature may decide upon, but they must contain as nearly as possible the same population. Sometimes the dominant party in the legislature “gerrymanders” the districts—that is, marks them out in a way that is grossly unfair to the minority party. A Representative need not reside in the district he represents, but public opinion is strongly in favor of residence within the district. It sometimes happens that a State, after receiving an increase in the number of its representatives, fails to be re-districted promptly. Until such time as it is re-districted the additional members (or member) are elected by the voters of the whole State on a general ticket, and are called “Congressmen-at-large.”

Election of Senators. For considerably more than a century members of the Senate were elected by the legislatures of the several States (15). But a long experience showed that the system did not work well. The position of United States Senator being highly prized as an honor, the

struggle for it became so keen as seriously to demoralize the legislature and interfere with the regular business. Sometimes, after a contest that had lasted through the entire session, the legislature was compelled to adjourn without electing a Senator. To remedy such evils an amendment providing for the election of Senators by a direct vote was adopted in 1913, and since that time the Senate, like the House, has been composed of members elected by the people (161).

Powers of Congress. The power of Congress extends to almost every subject of national concern coming under the jurisdiction of the federal government. Its ordinary legislative powers, enumerated in Article I, Section 8 of the Constitution and touched upon in a general way heretofore (p. 47), will receive particular attention at appropriate points in subsequent chapters. But Congress enjoys important powers that are not strictly legislative in character. It possesses the power of removing the civil officers of the United States by the process of *impeachment*. When a high federal official is charged with gross misconduct in office—as, for example, if a President should be charged with not enforcing a law, or a federal judge should be accused of receiving bribes—he may be reached by impeachment. Impeachment begins in the House of Representatives, where the charges against the unfaithful officer must be laid (14). If, in the judgment of the House, the accused person is guilty, the impeachment or accusation is carried to the Senate to be tried (22). The Senate, while trying the impeachment, sits as a court of justice. Witnesses are summoned and examined, and evidence *pro* and *con* is presented. If by a two-thirds vote the Senate sustains the impeachment, the accused person is deprived of his office (23). He may afterward be tried and punished in a court of law for his offense, but such a trial would not be a part of the process of impeachment.

The main object of impeachment is to protect the govern-

ment from the acts of faithless officers, not to punish crime. Its purpose, therefore, is fulfilled when the offending officer is removed. Although in practice impeachment has been of slight importance, it is, nevertheless, an enginery of tremendous possibilities. By an arbitrary or drastic application of this power Congress might make itself, temporarily at least, the complete master of every branch of the federal government. For the President, Vice-President, and the members of the Supreme Court of the United States are all removable by impeachment (104).

The Senate has large powers in connection with treaty-making, a subject that will be considered hereafter (p. 97). The power of the Senate is also felt in the case of presidential appointments to office. The Constitution provides that certain presidential appointments must be confirmed by the Senate (97). In the exercise of this power the Senate has established a custom of confirming only those appointments that are agreeable to the senator from the State in which the appointment is made. The Senator to be consulted belongs to the President's party. If the State in which the appointment is made has no Senator of the President's party, the party leaders of the State must be consulted. The deference to the wishes of individual Senators in the matter of confirming appointments is called *senatorial courtesy*. The application of the rule of senatorial courtesy greatly increases the power of the Senate, for in many instances it has the effect of taking federal patronage from the President and bestowing it upon Senators. When confirming appointments the Senate regards itself as acting in an executive capacity. It holds its executive sessions behind closed doors. All purely legislative sessions, both of the House and of the Senate, are as a rule open to the public.

Congress the Hope of the Nation. Congress, by reason of its far-reaching powers and by virtue of its organization, is the political nerve center of the American nation. Its

members, whether those of the House or of the Senate, come fresh from the people, and its voice is the voice of the people. Its laws affect, directly or indirectly, for good or for evil, every person in the United States. In its halls have been done the things that have made America the country it is, and our political destinies are still in its hands. Congress, therefore, is the hope of the nation.

Here, then, is a civic duty of transcendent importance: Voters must send men to Congress who will measure up to the great responsibilities that rest upon the shoulders of their national representatives. This duty can not be absolved by offhand, careless action. If we are to have real statesmen in Congress, citizens when choosing Representatives and Senators must put intelligence and honesty into their votes. Nor can the duty be absolved by criticism and scolding. In this case, as in all cases, let it be said again, it is vain and useless to rail at our Representatives and say ugly things about them. Voters must take time by the forelock and not allow bad men to get into Congress. If they do this, there will be no need for scolding. If the voters fail in this matter, if instead of sending statesmen to Congress we allow that body to become an assemblage of political gamblers, then we will certainly be started on the road to national ruin.

QUESTIONS ON THE TEXT

1. Enumerate eight of the characteristic features of the American government.
2. Explain the difference between the national principle of representation and the federal principle. What was the Connecticut compromise?
3. In what respect is Congress a national body? In what respect is it a federal body?
4. In what manner are Representatives apportioned to the several States?
5. Give an account of the election of Representatives.
6. Why was the election of United States Senators taken from the State legislatures and given to the people?
7. Describe the process of impeachment. What is meant by senatorial courtesy?
8. "Congress is the life of the nation." Explain this statement,

SUGGESTIVE QUESTIONS AND EXERCISES

1. Show from the history of the times that the people in 1787 needed a government that would accomplish just such objects as are mentioned in the preamble (1).

2. What words in the preamble reveal the democratic feature of our Constitution? What words its federal feature?

3. In referring to the government that has its seat at Washington, why do we sometimes speak of it as being *federal* and sometimes as being *national*?

4. Give the history of the word "gerrymandering." Is there any sign of gerrymandering in the boundaries of the congressional districts of your State? Point out the wrongs of gerrymandering. What system of representation heretofore described would lessen the evil of gerrymandering? Bound the congressional district in which you live.

5. By referring to the Constitution answer the following questions, and give reasons for the constitutional provisions: How is a member of the House of Representatives elected, and what is the length of his term of office (3)? What are the qualifications of a member of the House as to age, citizenship, and residence (5)? When is a person qualified to vote for Representatives in the House (4)? How is a vacancy in the House of Representatives filled (12)? What are the qualifications of a Senator as to age, citizenship, and residence (18)? When does the Vice-President have a right to vote in the Senate (20)? Who presides at an impeachment trial when the President has been impeached (22)? If the right to membership in Congress is contested, how is the question decided (26)? How is the compensation of members of Congress determined (32)? What special privileges do members of Congress enjoy (33)? What circumstance will prevent a member of Congress from receiving an appointment to office under the federal government (34)? What circumstance will disqualify a man for membership in Congress (35)?

6. Should a member of the Lower House consider the interests of his district as being of more importance than those of the nation? Should a Senator place the interests of his State above those of the nation?

7. Congressmen receive twenty cents for every mile of travel to Washington and return to their homes. What is the amount of the mileage of the member of the House who represents your district?

8. Among the members of the thirtieth Congress—the one that assembled in December, 1847—were Abraham Lincoln, Daniel Webster, John C. Calhoun, Stephen A. Douglas, Thomas H. Benton, Lewis Cass, and Andrew Johnson. Name seven of the greatest leaders of the present Congress, and compare them in respect to ability and statesmanship with the seven leaders mentioned above.

9. Name the Senators and Representatives elected from this State. How many of them are distinguished for their ability? (A copy of the Congressional Directory is of great service to a Civics

class; doubtless a copy may be secured through the kindness of some member of Congress.)

10. In 1907 the salary of members of Congress was raised from \$5,000 to \$7,500. Did the rise in salary secure a higher grade of Senators and Representatives? Can you secure better officials by giving them more money? Could you secure better Representatives in Congress by electing the best men available and then honoring and trusting them after their election? Will censure and distrust make men better or worse? Will honor and respect make them better or worse? Do you often hear members of Congress praised? Have you observed that voters show much anxiety about the election of members of Congress? Give reasons why voters should be deeply concerned about the election of Senators and Representatives.

TOPICS FOR SPECIAL WORK

1. The Election of United States Senators: Jones, 129-141.
2. Gerrymandering: Jones, 151-155.
3. Rights of Senators and Representatives: Hinsdale, 182-186.
4. The House of Representatives and House of Commons: Kaye, 149-156.
5. An Apportionment Bill: Kaye, 148-149.
6. The House of Representatives: Munro, 176-190.

XV

CONGRESS AT WORK

In the preceding chapter the broader aspects of the subject of congressional organization were considered. In this chapter we shall learn of the organization which Congress provides for the conducting of its business in an orderly manner. How does Congress go about its work? How is a law of Congress passed?

Assembling of Congress and Its Adjournment. It is provided in the Constitution that Congress shall assemble at least once in every year (25), and, unless a different date is fixed by law, the meeting shall be on the first Monday in December. It should be clearly understood, however, that Congress is fully competent to fix the date of its regular meeting. For example, it could arrange to meet annually on the 5th of March. An extra session of Congress begins at a date fixed by the President (100). After Congress has once assembled it may hold sessions continuously until its legal existence comes to an end. The President may call a Congress to Washington, but he can not send it home. The assembling and adjournment of Congress, therefore, are matters that are completely under the control of Congress itself. In case, however, the two Houses should not be able to agree upon a day for adjournment, the President may intervene and adjourn them until such time as he may think proper (101).

How Congresses Are Numbered; Sessions of Congress. The first House of Representatives was elected to serve from March 4, 1789, until March 4, 1791, when the terms of all its members expired. But on March 4, 1791, the term of only one third of the members of the Senate had expired; two thirds still retained their seats. So the entire membership of Congress really did not come to an end

on March 4, 1791. Yet it was decided to disregard the term of the Senators and number the Congresses according to the periods for which the *Representatives* were elected. According to this rule, the first Congress began its legal existence March 4, 1789, and expired at the hour of noon, March 4, 1791, when the terms of the Representatives first elected came to an end; the second Congress came into power March 4, 1791, and ended its career March 4, 1793; the third Congress began March 4, 1793, and ended March 4, 1795; and thus to the present time. Congresses, therefore, are numbered according to the biennial periods for which Representatives are elected, and the legal existence of a Congress begins on March 4, following the election of Representatives, and ends March 4 two years later.

As a rule, the work of Congress is done in two regular sessions. The first session begins in December, when a Congress assembles for the first time, and usually ends late in the spring or early in the summer of the following year, although occasionally it does not end until late in autumn. This first session is known as the long session. The second, or short, session begins when Congress assembles in December for the second time, and ends at twelve o'clock meridian the following March 4. Besides the two regular sessions, there may be one or more extra sessions, beginning on dates fixed by the President, but ending at the pleasure of Congress.

Congress assembles in the Capitol at Washington, the Senate occupying the north wing of the building, and the House the south wing. When making laws, the two Houses must carry on work during the same period of time, although either House may sit alone for a period not exceeding three days (31). In the making of a law the House and the Senate are coördinate bodies; a bill passed by one House is not a law until it is passed by the other also. Either House may originate and pass such bills as it chooses, except that bills for raising revenue must originate in the House of Representatives (36).

The House at Work. Since each House effects its own organization (13, 21) and each goes about its tasks in its own way (28), the House at work presents a picture quite different from that presented by the Senate at work. When the members of a new House assemble for the first time, the clerk of the previous House calls them to order, causes a roll to be called, and, if a quorum (27) is present, invites the House to proceed with the election of a Speaker (13), who is always chosen from among the members of the House. After the election of the Speaker the other officers of the House, the sergeant-at-arms, the clerk, doorkeeper, postmaster, and chaplain, are elected, and the work of the session begins.

The character of the proceedings of the House depends in no small degree upon the man selected as Speaker. The duties of the Speaker are defined by the rules of the House. He calls the House to order; he signs all bills; he decides questions of parliamentary law; he puts questions to the House to be voted upon; he preserves order on the floor of the House; and in general he carries out the will of the House. When a member wishes to be heard, he must first be recognized by the Speaker. A member failing to secure recognition must remain silent. The right of the Speaker to recognize or ignore a member desiring to speak carries with it much power; but it is a power that must not be abused, and that must not be used in a haphazard or partizan fashion.

The House consists of more than four hundred ambitious, enthusiastic men, almost every one of whom has his heart set upon the passage of one or more bills. At the opening of a session of Congress, therefore, there is a great rush of new bills. Several thousand are introduced within a few days after the session begins. During the life of a single Congress as many as twenty-five or thirty thousand bills have to be considered. Bills are introduced by individual

members very often at the request of an outsider, and it may easily happen that a member is personally opposed to the very bill he introduces. For it is no trouble to introduce a bill. In the House of Representatives a member does this simply by dropping it into a receptacle called the "hopper"—the place where a bill starts on its long journey through the legislative mill.

Bills are taken from the "hopper" and distributed, each finding its way to the appropriate committee. A committee is a small group of members to which is assigned the task of attending to a particular branch of legislation. The more important committees of the House consist of from fifteen to twenty-one members. The principal standing committees—committees that are provided for by the rules and that continue in existence throughout the session—are those on ways and means, appropriations, foreign relations, the judiciary, currency, interstate and foreign commerce, military affairs, naval affairs, pensions, elections, manufactures, agriculture, rivers and harbors. The committees are elected by the House, but before the vote is taken the membership of each committee is determined by party action. For in Congress, as elsewhere, party government holds sway.

It is in the committee-rooms that most of the serious work of Congress is done. When a visitor to the halls of Congress finds only a handful of members in their seats, he should not think that our legislators are remiss in their duties; for the absentees are scattered about in the committee-rooms of the Capitol and office buildings, busily engaged in the preparation of bills. The important committees meet in spacious rooms, and frequently carry on their work openly in the presence of large audiences.

When considering a bill, the committee gives a hearing to the public and allows friends of the measure to speak in its favor, while opponents are allowed to speak against it. At these hearings any citizen who wishes to be heard is allowed to address the committee, provided it can find

time to listen to him. And citizens make good use of the privilege. When very important legislation is pending, throngs of men and women from all parts of the country visit Washington for the purpose of appearing before the committees of Congress. Public officials as well as private citizens are heard. Members of the Cabinet, generals, admirals, and other high officers present their views. Quite often even a member of Congress will appear before a committee of which he is not a member, and speak in favor of or against some bill under consideration. So committee procedure is thoroughly democratic in character, and the committee-room is a place where discussion is very full and free and open.

After the hearings are over and the discussion is finished, a vote is taken. If the majority of the committee is against the proposed measure, it is reported *unfavorably*; that is, it is "killed in committee." And that is the fate of most bills, for thousands of the bills that go into the "hopper" never get any further than the committee-room. A bill that has been smothered in the committee-room may by a mandate of the House be brought up for consideration, notwithstanding the adverse action of the committee. But recourse to this process is seldom taken; when a bill fails in committee, that usually is the last of it. If a majority of the committee believe that Congress ought to have an opportunity to vote on the proposed measure, it is reported *favorably*; and, unless it is a highly privileged matter, it is placed upon the *calendar* along with hundreds, perhaps thousands, of other bills. The calendar, a kind of catalogue or register of bills, has been called the "cemetery of legislative hopes," because so many bills are never heard of again after they reach it. When a bill has found its way to the calendar its fate henceforth rests with the rules of the House. The general rule in reference to a bill on the calendar is that it must wait its turn for consideration, a rule that, if rigidly enforced, would in most cases postpone action indefinitely.

But a method is provided by which a bill may be advanced on the calendar. The agency for moving a bill forward, and for controlling in many ways the procedure of the House, is the *committee on rules*. This consists of eleven members, six of whom belong to the political party in the majority and five to the minority party. The committee on rules has the high privilege of bringing in at any moment a "special rule" or order, appointing a certain time for the consideration of a bill. With the consent of a majority of the House, it can without any discussion or delay order any bill to be taken from the calendar for immediate consideration. It can do much more. It can determine the conditions of debate, how long members may speak, whether amendments to the bill may be offered or not, when a vote shall be taken. A few years ago, when it was desired to hasten the passage of a railroad measure in order to avert a strike, a "special order," brought in at eleven o'clock in the morning, mapped out a course of such rapid procedure that the bill reached a vote by four o'clock in the afternoon. Since the course of legislation in the House is practically determined by the committee on rules, this little group is one of the most powerful parliamentary engines in Congress.

Before a House bill is acted upon in a formal, final manner, it is usually considered by the *committee of the whole*. This is the entire membership of the House acting as a committee. It is simply the House itself doing business with less regard to rules of procedure, unhampered by tedious roll-calls, or delayed by motions to adjourn, to refer, to postpone, and the like. In the committee of the whole there is great freedom of debate, and many members participate in the discussions. In fact, it is here that the House, considered as a deliberative body, is at its best. When a bill has been favorably acted upon by the committee of the whole, it is reported to the House organized as in regular session. A final vote on the bill is then taken,

and if a majority of the House is in its favor it is sent to the Senate.

The Senate at Work. In the Senate, procedure in its main features resembles that of the House. Much of the heavy work is done by committees elected by the vote of the Senate, the membership of each committee being previously determined by party action. When a bill comes to the Senate from the House, or when one is introduced by a Senator, it is referred to the proper committee for consideration, public hearings are granted, and if the measure meets with the approval of the committee it is reported to the Senate for action. The Senate goes about its work in a masterful, dignified way and without the appearance of hurry. Its repose is in keeping with the stability of its organization. When a Congress expires, two thirds of the members of the Senate retain their seats in the next Congress (16). The Senate is thus in part a continuous body: "always changing—it is forever the same." It is not re-organized at the opening of each Congress. The Constitution provides that the Vice-President shall be its permanent presiding officer (20). The temporary president (21) and its other officers hold their positions for indefinite periods. Senators on an average are much older than members of the House, and as a rule they bring to their work the lessons of a longer political career. The continuity of its existence, the stability of its organization, the maturity and experience of its members, are all reflected in the Senate's proceedings.

As might be expected, the course of legislation in the Senate is smoother than it is in the House. On the floor of the Senate there is ordinarily the utmost freedom of debate. Any member may talk as long as he pleases on any subject that comes up for discussion, it being assumed that no Senator will abuse the privilege of unlimited debate and talk merely to kill time. But occasionally Sena-

tors *filibuster*; that is, they talk on and on, killing time in order to prevent a vote on a bill that would pass if allowed to come to a vote. In 1890 a Senator, in order to keep a measure from coming to a vote, spoke for fourteen hours without interruption. In 1903 a Senator, wishing to force the Senate to yield on a certain point, placed Lord Byron's complete works on his desk, and threatened to read every word of them if the Senate should persist in refusing to do what he wanted it to do. The Senate yielded because the demand was made in the closing hours of a Congress and important business was ahead. In order to check filibustering, the Senate in 1917 adopted a rule making it possible to limit the time a Senator may speak on a particular measure to one hour, when it is the wish of two thirds of the Senate that the debate be thus limited.

When the Senate and the House disagree as to some of the details of a bill and there is a "deadlock," a joint committee, called a *conference* committee, consisting of a group of three or four or five members from each branch, is appointed to adjust the difference, so that an agreement may be reached. In conference much of the important work of Congress is done, for it is there that all disputes between the House and the Senate about bills are settled. It must be understood, however, that every particular change made in a bill by the conferees must be agreed to by both the House and the Senate before the bill can become an act of Congress.

QUESTIONS ON THE TEXT

1. What are the three methods by which Congress may be assembled? How is it adjourned?
2. On what principle are Congresses numbered? When does the legal existence of a Congress begin? When does it terminate? What can you say of the several sessions of Congress?
3. What is the first step taken in the organization of a Congress? What are the duties of the Speaker?
4. What is the method of introducing bills?
5. Give an account of the committee system.
6. What is the calendar? How may a bill be taken from the

calendar before its turn? How is it possible for the committee of rules to control the course of legislation in the House? Give an account of the committee of the whole.

7. Describe the Senate in its leading characteristics.

8. On what principle is debate in the Senate conducted? How may filibustering be checked?

9. Give an account of the conference committee.

SUGGESTIVE QUESTIONS AND EXERCISES

1. Answer the following questions by referring to the Constitution: How is a Speaker of the House of Representatives chosen (13)? When does the Vice-President have a vote in the Senate? When a President is impeached who presides at the impeachment trial in the Senate (22)? What constitutes a quorum in the House (26)? How may disorderly behavior in Congress be punished (29)? How may a member of Congress be expelled (29)? How may a yea and nay vote be secured (30)? Give the history of a bill after it has passed Congress (37). How may the veto of the President be overcome (40)? Under what circumstances may the President defeat a bill without vetoing it (41)?

2. Give reasons for not allowing the Vice-President to preside at an impeachment trial when the President is accused.

3. Why is it unfortunate that so long a time should elapse between the election of Congress and its first regular session?

4. If a member of Congress should be expelled and his constituents should reelect him after his expulsion, should Congress then permit him to take his seat?

5. Ought a member of the Cabinet be allowed to take part in the debates of Congress?

6. What are the advantages and disadvantages of "senatorial courtesy"?

7. If President Johnson had been removed from office by the process of impeachment how would his successor have been appointed?

TOPICS FOR SPECIAL WORK

1. The Committees of Congress: Kaye, 162-166.

2. Freedom of Debate in the Senate: Kaye, 167-170.

3. Leadership in the House: Beard, 280-286.

4. Procedure in the House: Munro, 191-207.

5. Committees in the House of Representatives: Gettell, 354-356.

THE PRESIDENCY

In the organization of the federal government the President holds the most commanding and conspicuous position. What are the leading facts in respect to the Presidency? How does the President receive his office? What are his powers and duties? What is his position as a political personality?

Election of the President. As we have seen, a fatal weakness of the Union under the Articles of Confederation was the absence of an executive to enforce the laws. The Convention soon decided to remedy this defect by establishing a strong executive department and vesting its powers in a President (78). How was this officer to be selected? This question gave rise to a vast amount of discussion. Some wanted him elected by Congress; but it was said that this would make the executive dependent upon the legislature, and it was highly important that these two branches should be independent of each other. It was suggested that he be elected by the Senate; but this method was opposed as being too aristocratic. An election by a popular vote of the whole country was recommended; this plan was opposed as being too democratic. To end the discussion, a plan of indirect election was adopted: the President was to be chosen by State colleges of electors, the electoral college of each State to have a number of electors equal to the combined number of Senators and Representatives to which the State was entitled in Congress (81). Each State was permitted to select its electors in a way agreeable to the legislature (80). Each of the electors was to vote for two persons (82), and the person who received the greatest number of votes (providing it was a number

equal to a majority of the electoral votes) was to be the President, and the one who stood second in the list was to be Vice President (85). If more than one person received a number of votes equal to a majority of the electoral votes, the election of the President was to be made by the House (84).

The electoral plan as first adopted proved to be as clumsy in practice as it was excellent in theory. In the fourth presidential election the electoral system as devised by the framers broke down almost completely, and the Constitution had to be speedily amended (146). By the twelfth amendment, which was adopted in 1804, the work of the electoral college is simplified by making the election of the Vice-President an affair entirely distinct from the election of the President (147).

The State legislature may appoint the electors itself, it may vest their appointment in some other body, or it may call upon the people to elect them. In the early days of the Union the States differed in their methods of selecting electors. In some States they were elected by the legislature; in some they were elected by districts, as Representatives in Congress are at the present time; while in a few States they were elected on a common ticket. To-day every State elects its presidential electors in the same way—on a common ticket by a popular vote. Such uniformity is at first sight almost amazing. Why have all the States agreed to do this thing in the same way? Democracy and party organization must answer. We still adhere to the forms of the electoral system as provided in the twelfth amendment, but the spirit of that system has long since departed. The people long ago took the election of the President into their own hands. They have done this through the agency of political parties, and the requirements of party organization have produced uniformity in the methods of electing the presidential electors. How one hundred millions of people actually accomplish this stupendous and inspiring task of selecting one of themselves

as their ruler may best be told when we come to speak of party organization (p. 222).

Powers and Duties of the President. The members of the Convention were distrustful of executive power, and were disposed to clothe the new President with only as much authority as was absolutely necessary. Nevertheless, they gave him fully as much power as an executive ought to have. They made him commander-in-chief of the military forces (92); they gave him the power of pardoning offenses against the government of the United States (94); they conferred upon him, jointly with the Senate, the treaty-making power (95) and the power of appointing foreign ministers, consuls, judges of the Supreme Court, and many other federal officers (96); they imposed upon him the function of receiving foreign ambassadors and representatives of foreign governments (101); they gave him authority to deliver to Congress in person, or to lay before that body in writing, messages setting forth the condition of public affairs and recommending measures for legislation (100); they gave him power to convene Congress in extraordinary session and to adjourn Congress when the two Houses can not agree as to the matter of adjournment (101); they gave him the veto power (38).

The highest and the chief duty of the President is "to take care that the laws be faithfully executed" (102). This is a purely executive duty, and one that the President can not escape. A law may be distasteful to the President; he may regard it as hurtful or unconstitutional; yet, as long as it is a law, he must enforce it. "As the citizen may not elect what laws he will obey, neither may the executive elect which he will enforce." Should the President wantonly refuse to execute a law, he would be removable by the process of impeachment.

The President's Share in Law-Making. While the President is bound to carry out the laws of Congress whether

he is in sympathy with them or not, he may nevertheless do much to prevent the enactment of laws obnoxious to himself. His power of prevention lies in the veto (38). The early Presidents regarded the veto as a weapon placed in their hands for the purpose of preventing Congress from passing such laws as were seemingly violations of the Constitution: they did not assume that the veto was given them in order that it might be used to prevent the passing of any kind of laws whatever. Andrew Jackson, however, set the example of vetoing any measure to which he was personally opposed, and his successors have not hesitated to use the veto as a real legislative engine. How great the veto power is may be seen by a simple calculation. A bill may pass in the present House of 435 members by a vote of 218 to 217, and in the Senate by a vote of 49 to 47. Now, if the President should veto the bill, it would require 72 more votes in the House and 15 more in the Senate (40) to pass the measure over his veto.

The President's share in law-making does not end with the negative power of the veto; he possesses some legislative power of a positive nature. In making the laws known as treaties he takes the initiative, and, as will be explained hereafter (p. 259), his power is almost absolute at every step of the treaty-making process. By convening Congress in extra session, he can present to that body subjects for its special consideration and urge upon it his views in respect to needed legislation.

In addition to his Constitutional means of reaching Congress, the President has other convenient avenues of approach. Through his influence as a party leader and as a distributor of patronage, he can often cause members of Congress to support the measures upon which his heart is set. Through his Secretaries or other high officials he may make known his wishes to the committees of Congress and cause them to consider bills in which he is interested. A Secretary may not appear on the floor of either House as the advocate of a measure, but he may appear in a com-

mittee-room and act as the mouth-piece of the President.

Then, too, the President has great weight with Congress because of his tremendous influence with the people. For the President has the whole nation as his audience. Everything he says is printed in every newspaper in the country. When, therefore, his voice is raised in favor of a measure, it is heard by the whole body of the American people. If it is a clear and persuasive voice, millions of people are won to his way of thinking; and it is not to be wondered at if members of Congress sometimes hesitate to oppose their wishes to those of the President.

Succession to the Presidency. A vacancy in the office of President may occur by the death, impeachment, or resignation of the incumbent, or by his inability to discharge the duties of his office. The Constitution provides a Vice-President (88) to succeed in the case of a vacancy. If for any reason neither President nor Vice-President can serve, an officer designated by Congress (89) succeeds to the Presidency. Under the presidential succession act of 1886 it is provided that in case neither President nor Vice-President can serve members of the Cabinet shall succeed to the Presidency in the following order: (1) the Secretary of State, (2) the Secretary of the Treasury, (3) the Secretary of War, (4) the Attorney-General, (5) the Postmaster-General, (6) the Secretary of the Navy, (7) the Secretary of the Interior. The one succeeding to the Presidency serves for the remainder of the four years, but any one thus succeeding must have the constitutional qualifications.

Thus far in our history the only officer who has been called upon to fill a vacancy in the Presidency has been a Vice-President. Five times such a succession has occurred, the vacancy each time being caused by death. The office of Vice-President is, therefore, one of great potential importance. In selecting a Vice-President we ought to be almost as careful as we are when we select a President. A party convention, when nominating a candidate for the

Vice-Presidency, should keep in mind the interests of the country as well as the interests of a party, and refuse to name as candidate for Vice-President any man who would not be likely to acquit himself well in the presidential chair.

The President as a Political Personality. The President is the most commanding political personage in the United States. He is not only the fountain of executive energy—he is also the representative of a great people. He reflects the ideals and aspirations and attributes of the American electorate. If the electorate should become vain-glorious and selfish and low in its standard of morality, it might place in the presidential chair a man like unto itself. To the honor of our democracy, only pure and honest men have been elected to the Presidency; and to the honor of party management, no low or vile man has ever been named as a presidential candidate. Voters ought to demand that this high level of personal character in presidential aspirants be maintained. The Presidency under the Constitution is attainable by any natural born citizen (86), but no citizen of smirched reputation or base character should feel that it is within the range of possibility for him to become President. The saneness and goodness of democracy will be assured only as long as it refuses to ally itself with evil—evil men or evil policies.

QUESTIONS ON THE TEXT

1. What methods of electing the President were suggested in the Convention of 1787? Explain the method that was adopted. What change was made in this method by the twelfth amendment?
2. In what ways may presidential electors be chosen? Why has the present method been adopted in all the States?
3. Enumerate the constitutional powers and duties of the President. What is his chief constitutional duty?
4. Give an account of the share the President has in law-making.
5. In what ways, other than constitutional, may the President influence Congress?
6. What provision has been made for succession to the Presidency?
7. What can you say of the President regarded as a political personality?

SUGGESTIVE QUESTIONS AND EXERCISES

1. Examine the Constitution for answers to the following questions: What is the length of the President's term of office (79)? What are his qualifications as to residence, citizenship, and age (86)? If neither President nor Vice-President can serve, how is the office of President filled (89)? Can a President have his salary increased (90)? What is the President's oath of office (91)?

2. Many people think that the President should be elected for a term of six years, and that he should be ineligible for a second term. Discuss this.

3. What are the qualifications for the office of Vice-President? What are the duties of the Vice-President?

4. Name the qualities that should be found in a President. Name the four Presidents who have been the highest embodiment of these qualities.

5. How many Presidents have been elected a second time? Have the second administrations of Presidents generally been successful?

6. Is the pardoning power a judicial or an executive function? Is the veto power a legislative or an executive function?

7. How many Vice-Presidents have succeeded to the Presidency? Of these how many were well fitted for the higher position?

8. Ought the President to be elected by a direct popular vote?

9. Some one has said: "If we must have a 'boss,' let that 'boss' be the President and not Congress." Do you see lurking in such a sentiment any danger to democracy and to representative government? If so, point out the danger.

10. "The President is the hope of the nation." Do you give your assent to this statement?

TOPICS FOR SPECIAL WORK

1. The Veto Power of the President: Johnson, 370-379.
2. Presidential Dictatorship: Johnson, 474-481.
3. Executive Supremacy: Kaye, 196-202.
4. The President as a Party Leader: Jones, 205-211.
5. Impeachment of President Johnson: Johnson, 553-556.

F.A.E.

XVII

THE FEDERAL EXECUTIVE DEPARTMENTS

In the foregoing chapter we learned the leading facts in respect to the Presidency. But the President is only the chief officer of the executive branch of the federal government. Below him are the great federal executive departments established for carrying on the nation's business.

The Executive Civil Service. With the exception of the provisions referring to the President and Vice-President, the Constitution says very little about the executive branch of the federal government. The only reference to the organization of the executive departments are a few words that merely imply their existence (93, 98). Yet upon these few words of implication a mighty federal machine has been erected.

In the executive civil service of the federal government nearly 600,000 persons are employed. These persons receive their positions in two ways: they are either appointed directly by the President, or they are appointed by the heads of departments. The 10,000 or more Presidential appointees—the heads of departments and their chief assistants, the postmasters of the larger places, the chief custom-house officials and collectors of internal revenue—must be confirmed by the Senate (97). All the vast army of officers and employees not appointed directly by the President are appointed by the heads of departments.

Every person in the executive civil service, from the head of one of the great departments down, receives his position, directly or indirectly, from the President. Congress creates positions, but it can not name the persons



who are to fill them. It may vest the appointment elsewhere than in the President (98) but it can not place the appointing power beyond the President's reach. Through the heads of departments, the President's power in respect to appointments extends to all the ramifications of the federal civil service. And his power to remove is even greater than his power to appoint. Appointments to the higher offices must be agreed to by the Senate, but in the matter of removals the Senate need not be consulted. The President may remove any person employed in the federal executive civil service, at any time, for any reason or for no reason.

Of course, the President can not give special attention to every case of appointment or removal. In these matters, as in everything else, he must be guided by the heads of departments. He must also consult Senators and Representatives and party leaders about appointments, and he must take care to allot to each State a number of appointments apportioned to its population.

Nearly two thirds of the clerks and other employees performing routine duties secure their positions through the agency of the *Civil Service Commission*. It is the duty of this Commission to examine applicants seeking employment under the federal government and to report on their fitness. The names of persons who have passed the examinations are sent to the heads of departments, and selections are made from among the applicants who have acquitted themselves with the greatest credit, those getting the highest marks being the first to be appointed. Employees who have passed the civil service examinations and secured employment are allowed to hold their places until the age of retirement, provided they conduct themselves properly and do their work well.

The Cabinet. To assist him in governing, the President summons to his aid ten subordinates, known as Secretaries. These are:

1. The Secretary of State.
2. The Secretary of the Treasury.
3. The Secretary of War.
4. The Attorney-General.
5. The Postmaster-General.
6. The Secretary of the Navy.
7. The Secretary of the Interior.
8. The Secretary of Agriculture.
9. The Secretary of Commerce.
10. The Secretary of Labor.

Each of the Secretaries is responsible to the President for the management of one of the great departments of executive business. At stated times the Secretaries meet the President for consultation. This executive council is known as the Cabinet. The Cabinet as a body has no legal functions whatever, and is wholly unknown to the Constitution, although the possibility of the existence of a consultative body is dimly foreshadowed in the words: "The President may require the opinion in writing of the principal officers in each of the executive departments upon any subject relating to the duties of their respective offices" (93).

The Cabinet meets at the White House at the call of the President. If the President should fail to call his Secretaries together, there would be no such thing as a Cabinet. Several years ago there was a rumor abroad that the President had decided to do away with the Cabinet. The rumor proved to be only a fabrication; yet, if the President had wished to abolish the Cabinet, he could have done so. Records of the meetings of the Cabinet are rarely kept, and the public knows nothing of what takes place at them. The President is not bound to act in accordance with the wishes of the Cabinet, and not infrequently he acts in opposition to their wishes. The function of the Cabinet—if it can be said to have a function at all—is to discuss and advise: it is for the President to decide and act.

Organization of the Departments. For the most part, it is through his Cabinet officers, acting as heads of the great departments, that the President governs. The names of these departments, a brief statement of the purpose for which each has been established, and a general view¹ of the organization of each will now be given:

I. *The Department of State*, under the management of the *Secretary of State*, attends to foreign affairs. In this department are the *Diplomatic Bureau*,² the *Consular Bureau*, *Division of Passport Controls*, and the *Bureau of Rolls and Library*.

II. *The Department of the Treasury*, under the *Secretary of the Treasury*, manages the financial business of the country. In this great department are the offices of the *Comptroller of the Currency*, the *Treasurer of the United States*, the *Commissioner of Internal Revenue*, the *Director of the Mint*, the *Comptroller of the Treasury*, the *Bureau of the Public Health Service*, and the *Bureau of War Risk Insurance*.

III. *The Department of War*, under the *Secretary of War*, has charge of all matters relating to the land forces, to sea-coast fortifications, and to the administration of the Military Academy at West Point. In addition to many offices and bureaus whose duties relate wholly to the art of war, there are also in the department the *Bureau of Insular Affairs* and the *Board of Engineers for Rivers and Harbors*.

¹ The *services* of the several executive departments will receive attention at appropriate places hereafter. In this section only the organization of the departments will be indicated.

² Since each of the ten departments has a large volume of executive business, it is necessary to subdivide the work of a department and place an officer at the head of each subdivision. A subdivision is usually called a *bureau*, and the head of a bureau is called a director, or commissioner, or superintendent. In the text only the important subdivisions are mentioned. When the work of the Secretary of a department becomes too heavy for one man, he is provided with as many assistant secretaries as may be needful. Thus in the Department of State there are three assistant secretaries; in the Department of the Treasury, five. A full account of the organization of all the ten executive departments of the federal government is found in the Congressional Directory, a work compiled for the use of members of Congress. This book ought to be available for class use. A copy of it might possibly be secured through the courtesy of a Representative or a Senator.

IV. The *Department of Justice*, under the *Attorney-General*, is the law department of the national government. When the President or a member of the Cabinet desires legal advice, it is furnished by this department. When the federal government is interested in a case, an officer of the Department of Justice defends or prosecutes the suit in the federal courts.

V. The *Post-Office Department*, under the *Postmaster-General*, in addition to collecting, carrying, and distributing the mail, maintains a parcel post, manages a system of postal savings banks, provides the public with stamps and postal cards, and conducts a postal order system by which money may be safely transmitted to all parts of the world. The Postmaster-General is assisted in his duties by four assistant postmasters-general.

VI. The *Department of the Navy*, under the *Secretary of the Navy*, purchases naval supplies, provides for the construction and equipment of vessels, supervises the navy-yards and docks, and controls the Naval Academy at Annapolis.

VII. The *Department of the Interior*, under the *Secretary of the Interior*, has charge of national affairs that are of purely domestic concern. Among the bureaus and officers of this large department are the *General Land Office*, the *Office of Indian Affairs*, the *Bureau of Pensions*, the *Patent Office*, the *Bureau of Education*, the *Reclamation Service*, and the *Geological Survey*.

VIII. The *Department of Agriculture*, under the *Secretary of Agriculture*, diffuses among the people of the United States useful information on subjects connected with agriculture, its chief subdivisions being the *Office of Farm Management*, the *Weather Bureau*, the *Bureau of Animal Industry*, the *Bureau of Plant Industry*, the *Forest Service*, the *Bureau of Crop Estimates*, and the *Bureau of Public Roads and Rural Engineering*.

IX. The *Department of Commerce*, under the *Secretary of Commerce*, fosters, promotes, and develops foreign and

domestic commerce, mining, manufacturing, shipping and fishing industries, and transportation facilities. In this department are the *Bureau of the Census*, the *Bureau of Foreign and Domestic Commerce*, the *Bureau of Standards*, the *Bureau of Lighthouses*, the *Coast and Geodetic Survey*, the *Bureau of Navigation*, and the *Steamboat Inspection Service*.

X. The *Department of Labor*, under the *Secretary of Labor*, promotes and develops the welfare of wage-earners, its chief subdivisions being the *United States Employment Service*, the *Bureau of Immigration*, the *Bureau of Naturalization*, the *Bureau of Labor Statistics*, and the *Children's Bureau*.

Executive Work Outside the Departments. Several important items of executive business have not been brought under the supervision of any one of the ten great departments. The *Interstate Commerce Commission*, a body composed of eleven commissioners, is outside the control of any department. The *Civil Service Commission* (p. 126) consists of three members who are responsible directly to the President.

The *Federal Reserve Board*, which is composed of the Secretary of the Treasury, the Comptroller of the Currency, and five members appointed by the President, and which controls the organization and operations of the Federal Reserve Banks (p. 312), is an extra-departmental agency. The *Federal Trade Commission* (p. 345), composed of five members appointed by the President, is outside the control of any department. The *Board of Mediation and Conciliation*, which consists of a commissioner appointed by the President and of two other officers of the government designated by the President, is responsible only to the President. Likewise the *Shipping Board* (p. 320), the *Tariff Commission* (p. 319), the *Government Printing Office*, the *Library of Congress*, the *Railway Labor Board* (p. 337), and the *Smithsonian Institution* are outside of regular departmental control. The chief officers in all

these cases of extra-departmental activity are nominated by the President and confirmed by the Senate, just as the other principal officers are.

Salaries of Federal Officials. The salaries of the leading federal officers are as follows:

President	\$75,000
Vice-President	12,000
Members of the Cabinet.....	12,000
Chief Justice of the Supreme Court.....	15,000
Associate Justices of Supreme Court.....	14,500
Judges of Circuit Courts.....	8,500
Judges of District Courts.....	7,500
Representatives	7,500
Senators	7,500
Ambassadors	17,500
Ministers	10,000
Members of Interstate Commerce Commission...	10,000
Members of Federal Trade Commission.....	10,000
Members of Federal Reserve Board.....	12,000
Heads of Bureaus and Divisions.....	3,000 to 6,000
Assistant Secretaries of Departments.....	5,000

QUESTIONS ON THE TEXT

1. What is said in the Constitution about the organization of the federal executive departments? In what two ways do persons belonging to the executive civil service receive their positions? What is the extent of the President's power of removal? In what way do most of the federal employees secure their positions?

2. Give an account of the organization of the Cabinet. What is the chief duty of the Cabinet?

3. Give a brief account of the organization of each of the ten great federal departments.

4. Mention several agencies of executive business that do not come under departmental control.

SUGGESTIVE QUESTIONS AND EXERCISES

1. In England the Cabinet consists of a group of about twenty of the leading members of Parliament. At the head of this group is the Prime Minister. The Cabinet members, besides serving as law-

makers, at the same time act as the highest executive officers of the realm. The English Cabinet, therefore, is in reality a committee of Parliament; and, since the Cabinet really controls the execution of the laws, we may say that the executive branch of the English government is a committee of Parliament. The English Cabinet is composed of the members of the political party in power, and its actions reflect the policy of that party. When a Cabinet fails to be supported by a majority of the House of Commons, custom compels it either to resign or to appeal to the country by holding an election for a new House.

It is often proposed that the members of the American Cabinet be allowed to appear in Congress and urge upon that body the passage of measures that are desired by the executive. What characteristic principle of our government would such a course violate? Would it be well to abandon our traditional policy and allow members of the Cabinet to appear before Congress and make known the wishes of the executive department?

2. Name the members of the American Cabinet as at present constituted.

3. What is a bureaucracy?

TOPICS FOR SPECIAL WORK

1. Limiting Partizan Activity of Office-Holders: Jones, 260-266.
2. The Term "Cabinet" in the United States: Learned, 135-158.
3. The Creation of the Cabinet: Learned, 110-134.
4. The Cabinet: Kaye, 211-218.
5. The Cabinet and National Administration: Munro, 126-145.

XVIII

THE FEDERAL JUDICIARY

The organization of the executive and legislative branches of the federal government having received attention, there remains to be described the organization of the judicial branch. Of what grades of courts is the federal judiciary composed? What kind of cases are tried in these courts? What powers do these courts exercise in respect to the acts of legislatures?

Explanation of Terms. Before proceeding with the subject before us, several terms need to be explained. Cases or actions that come before courts are either criminal or civil. A *criminal* case is one in which a person is tried for crime. In a federal court a person accused of crime is guaranteed a trial by jury (139) in the State within which the crime was committed. A *civil* case, broadly speaking, is a controversy between private individuals concerning the rights of property. When a civil case is tried before a judge and jury (141) it is a case *at law*; when a civil case is tried before a judge only, it is a case *at equity*. The *jurisdiction* of a court is its power or authority to hear and determine controversies. When a court may deal with an action from its commencement, it has *original* jurisdiction; when it reviews a case that has been tried in a lower court, it has *appellate* jurisdiction; when a case may be tried either in one court or another, the two courts are said to have *concurrent* jurisdiction; when a case is carried from a lower court to a higher one to be heard, an *appeal* is said to be taken.

Independence of the Federal Judiciary. The Constitution does all that can be done to secure an independent

judiciary. It is true that the President appoints the federal judges (96); but, once appointed, they can not be removed except for cause (106), and then only by the solemn process of impeachment. Moreover, the salary of a federal judge is secure; it may be increased, but it can never be decreased (106). Indeed, the conditions that surround the federal judiciary render it as independent as it is possible to make it.

Organization of the Federal Courts. In the administration of justice there is always a gradation of courts—lower courts for the least important cases, higher courts for the weightier cases, and a highest or supreme court. The men of the Convention doubtless had the existing graded system of State courts in mind when they planned for the federal judiciary, but in the Constitution they indicated the organization of the federal courts only in the broadest manner. They provided for the Supreme Court (105), and left the establishment and the gradation of the lower courts to the action of Congress. A Supreme Court there must be, just as there must be a President; but the existence of the lower courts depends upon legislation.

One of the first things done by the first Congress was to pass (1789) the Judiciary Act, by which the Supreme Court and the lower federal courts were organized. The organization provided in 1789 has, of course, been changed from time to time to suit changing conditions. At present (1920) the organization of the federal judiciary is as follows:

I. *District Courts.* The lowest of the federal courts is the District Court, presided over by a district judge. In every State there is at least one District Court, and in the larger States there are several. Altogether there are in the United States about one hundred and ten District Courts.

The District Court has original jurisdiction in nearly all of those classes of cases, both civil and criminal, that

arise under the laws of the United States. In this court are tried admiralty and maritime cases, counterfeit cases, copyright and patent cases, cases arising under the postal laws, under the revenue laws, under the pure-food laws, under the public-land laws, under the laws regulating immigration and naturalization, under the interstate commerce laws. Cases involving controversies between citizens of different States may also be tried in the District Court when the defendant in such a case so desires. In fact, almost every kind of case cognizable by the authority of the United States is tried in the first instance in the District Court. A case appealed from a District Court is carried either to the Circuit Court of Appeals or to the Supreme Court.

II. *The Circuit Court of Appeals.* For the trial of certain classes of cases upon appeal, Congress has established nine judicial circuits, and has provided for each circuit a court known as the Circuit Court of Appeals.¹ This court is composed of regular circuit judges and judges of the other courts, three judges being necessary for the trial of a case.

The Circuit Court of Appeals, as would be inferred from its name, has appellate jurisdiction only. It was established in 1891 for the purpose of trying certain classes of cases that had hitherto been tried by the Supreme Court. With this purpose in view, Congress has provided that all appeals from the District Court shall be taken directly to the Circuit Court of Appeals, except in the five following instances: (1) When the case involves a question of jurisdiction; (2) when it involves the construction of the Constitution of the United States; (3) when it involves a ques-

¹ The First Circuit consists of Maine, Massachusetts, New Hampshire, Rhode Island, Porto Rico. Second—Connecticut, New York, Vermont. Third—Delaware, New Jersey, Pennsylvania. Fourth—Maryland, North Carolina, South Carolina, Virginia, West Virginia. Fifth—Alabama, Florida, Georgia, Louisiana, Mississippi, Texas, Canal Zone. Sixth—Kentucky, Michigan, Ohio, Tennessee. Seventh—Illinois, Indiana, Wisconsin. Eighth—Arkansas, Colorado, Oklahoma, Iowa, Kansas, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, South Dakota, Utah, Wyoming. Ninth—Alaska, Arizona, California, Idaho, Montana, Nevada, Oregon, Washington, Hawaii.

tion of the constitutionality of a law; (4) when it involves the construction of a treaty; (5) when it involves conviction for higher crimes. These excepted classes of appeals must be taken directly from the District Court to the Supreme Court. In all other cases than these the appeal lies to the Circuit Court of Appeals. The decisions of this court are made final in certain enumerated classes of cases, including copyright, patent, and admiralty cases, thus relieving the Supreme Court entirely of those cases. The cases not enumerated as final are still appealable to the Supreme Court.

III. *The Supreme Court*, consisting of the Chief Justice and eight associate justices. This court holds its regular sessions in the Capitol at Washington, sitting from October to July. The presence of at least six judges is required in the trial of a case, and the judgment of a majority of the judges sitting at a trial is necessary in rendering a decision. The Chief Justice presides at the sessions of the court, but when the court is forming its decision he is on an equality with the other judges. He has but one vote, and that is often cast with the minority. In authority and dignity the Supreme Court of the United States transcends all other judicial tribunals.

The Supreme Court has original jurisdiction in all cases affecting ambassadors, ministers, and consuls, and in those cases in which a State is one of the parties to the controversy (110). Its appellate jurisdiction includes certain cases that are brought up to it from the Circuit Court of Appeals, and all those cases that must be brought to it directly from the District Court. Since there is no higher tribunal, a decision of the Supreme Court of the United States is accepted as being the law of the land.

The Supreme Court and the Constitution. The Supreme Court has been called "the guardian of the Constitution." Of course, the real guardian of the Constitution is the electorate; yet the Supreme Court may do much, and has

done much, to preserve our fundamental law in its integrity. The place of the Supreme Court as a defender of the Constitution is seen in its power to declare as void and without force all acts that are repugnant to the Constitution. If a State law or a law of Congress seems to the Supreme Court to conflict with the Constitution, that tribunal, when a case arising under the law is brought before it, will declare the law unconstitutional, and its existence will be blotted out. "When a statute is adjudged to be unconstitutional, it is as if it had never been. Rights can not be brought up under it; contracts which depend upon it for their consideration are void; it constitutes a protection to no one who has acted under it, and no one can be punished for having refused obedience to it before the decision was made." (*Cooley*.)

When the Supreme Court declares an act of Congress unconstitutional, we see the judiciary undoing the work of the legislature, and at first sight we are inclined to accuse the judiciary of assuming more power than belongs to it. But lawyers do not take this view of the matter. Courts of law, whether low or high, are established to settle disputes between litigants. They do not seek cases, but wait until cases are brought to them. The Missouri Compromise was placed on the statute books in 1820, but it was not until 1857 that it was declared unconstitutional. When a case is brought into court, the judge must settle it strictly according to the law. Now, there are four kinds of laws in the United States, which every judge, high or low, must consider when rendering a decision, *viz.*, (1) laws of the State, whether made by the legislature or through the initiative and referendum, (2) the State constitution, (3) the laws of Congress, and (4) the federal Constitution. The court, whether the Supreme Court of the United States or the petty town court, has these laws before it when it decides a case, and if there is a conflict between two laws the lower law must give way. If the conflict is between a law of Congress and the Constitution of the

United States, the Supreme Court holds that the former must give way because the Constitution is the supreme law of the land (127). So, when the Supreme Court decides that a law of Congress is unconstitutional, it does only what a justice of the peace might do: it selects from conflicting laws the law of greatest authority and renders a decision in accordance with this highest law. There is, however, this great difference between a justice of the peace declaring a law of Congress unconstitutional and a similar decision of the federal Supreme Court: there is an appeal from the decision of the justice, but there is no appeal from the decision of the Supreme Court.

The reasons for reposing in courts the power to declare acts of legislatures null and void are to be sought in the principles that underlie a government whose powers are enumerated in a written constitution. These reasons are set forth with wonderful clearness in a celebrated decision¹ of the great Marshall: "The original and supreme will (the people) organizes and assigns to different departments their respective powers. The powers of the legislature are defined and limited; that these limits may not be mistaken or forgotten the Constitution is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may at any time be passed by those intended to be restrained? Certainly all those who have framed written constitutions contemplate them as the fundamental paramount law of the nation, and consequently the theme of every such government must be that an act of the legislature repugnant to the constitution is void. It is emphatically the province and duty of the judicial department to say what the law is. If a law be in opposition to the Constitution the court must either decide the case conformably to the law disregarding the Constitution or conformably to the Constitution disregarding the law. The court must determine which of the conflicting rules governs the case. This is

¹ *Marbury vs. Madison.*

the very essence of the judicial duty. The courts can not close their eyes to the Constitution and see only the law. This doctrine would subvert the very foundation of all written constitutions. It would be giving to the legislature a practical and real omnipotence with the same breath which professes to restrict their powers within narrow limits. It is prescribing limits and declaring that these limits may be passed at pleasure.”

This reasoning alarmed those who were opposed to a strong central government, for they saw in the doctrine of the Chief Justice an attack not only upon the rights of Congress but upon the rights of the States as well. If the Supreme Court could set aside an act of the federal legislature, with greater ease could it set aside an act of a State legislature or a clause of a State constitution; and if it could do this, what would become of the rights of the State? Marshall was attacked bitterly by the opposition; but he stood by his guns, and in decision after decision he continued for more than thirty years to assert the supremacy of the federal Constitution and to declare void any law that was repugnant of it. In the hundred and thirty-one years of its existence the Supreme Court has pronounced thirty-three acts of Congress and more than two hundred and twenty State laws to be in conflict with the Constitution.

The Supreme Court and the People. When the Supreme Court renders a decision in a case, the litigants must obey and the whole body of the American people must completely and peacefully acquiesce in the decision. This does not mean, and it ought not to be regarded as meaning, that the Supreme Court has the last word on any and every constitutional question, and that its decisions shall be binding forever and forever. The last word is always with the people. The Supreme Court, when expressing an opinion, simply utters the will of the people as it is expressed in the Constitution. If the people do not like the sound of their own voice, if they are no longer satisfied

with their Constitution, they can amend it. When they shall have amended it, the Supreme Court will instantly recognize the amendment as the supreme law of the land, and will render judgment in accordance with the letter and spirit of the amendment.

Federal Courts Outside the Federal System. Exercising federal authority, but not a part of the federal judicial system described above, is the *Court of Claims*, established in 1855 for the purpose of hearing claims founded upon contracts made with the government of the United States. The judgments of this court being against a sovereign state can not be enforced against the government as judgments are enforced against private persons. They are satisfied out of money appropriated by Congress for the purpose. The Court of Claims holds its sessions in Washington.

Other courts outside of the regular federal system are the territorial courts (p. 148), and the courts that have been established in the District of Columbia. These are not the federal courts contemplated in the Constitution; they are ordinary law courts established by Congress in pursuance of its power to govern the Territories (119) and the District of Columbia (61). Their functions correspond to that of the law courts of a State (p. 175).

Officers of the Federal Courts. Every district must be supplied with a district attorney, a marshal, and a clerk. The district attorney prosecutes and defends in the federal courts suits to which the United States is a party. The marshal is the federal sheriff (p. 184). He executes the judgments and orders of the court. The marshal is the connecting link between the judiciary and the executive. He acts under the order of the court, but in the name of the President. In the enforcement of a decision of the court he may call to his aid a posse of citizens and even the federal army. If the President should refuse to furnish the force necessary to execute a decree of the court,

he would thereby paralyze the arm of the judiciary. The clerk (appointed by the court) keeps a record of the proceedings of the court. The officers of a District Court serve also as officers of a Circuit Court. District attorneys and marshals are appointed by the President.

QUESTIONS ON THE TEXT

1. What is a criminal case? a case in equity? a case at law? What is meant by original jurisdiction? concurrent jurisdiction?

2. How is the independence of the federal judiciary secured?

3. Name the three grades of federal courts. Give an account of the organization and jurisdiction of each of these courts.

4. What is the effect of declaring a statute to be unconstitutional? What four kinds of laws must be considered by every judge? What reasons were given by Marshall to sustain the power of the Supreme Court to declare an act of Congress unconstitutional? To what extent has the Supreme Court pronounced laws unconstitutional?

5. In what relation does the Supreme Court stand to the people?

6. Give an account of the federal courts that are outside of the regular federal system.

7. Name the officers of the federal courts and state the duties of each.

SUGGESTIVE QUESTIONS AND EXERCISES

1. Consult Article III, Section 2, of the Constitution, and enumerate the kinds of cases that may be tried in the federal courts.

2. What is the number of the federal circuit that holds sessions in your State? What are the boundaries of this circuit? Name the judge of the district in which you live.

3. What are the salaries of the judges of the several federal courts? Do these salaries seem to be sufficient?

4. Thomas Jefferson proposed that the terms of the judges of the Supreme Court be limited to four or six years. Discuss the proposition.

5. How many of the present judges of the Supreme Court are Democrats? How many are Republicans? Should a President, in appointing a judge, consider the party affiliations of the appointee?

6. Name the Chief Justice of the federal Supreme Court and the eight associate justices.

7. Give an account of two famous decisions of the Supreme Court of the United States.

8. If Congress should pass a law that the people wanted and the Supreme Court should set the law aside, what remedy have the people?

9. Explain each of the following checks and balances mentioned by John Adams:

- (1) The House of Representatives is balanced against the Senate and the Senate against the House of Representatives.
- (2) The executive authority is balanced against the legislature.
- (3) The judiciary power is balanced against the House, the Senate, the executive power, and the State governments.
- (4) The Senate is balanced against the President in all appointments of office and in all treaties.
- (5) The people are balanced against their representatives by biennial elections.
- (6) The legislature of the several States are balanced against the Senate by sextennial elections.
- (7) The electors [presidential] are balanced against the people in the choice of President.

10. Of the "checks and balances" mentioned above, which one is no longer in operation?

TOPICS FOR SPECIAL WORK

1. The Power of the Federal Judiciary to Declare Acts of Congress Void: Johnson, 246-253.
2. Jurisdiction of the Supreme Court: Johnson, 282-290.
3. The Term of Office in the Federal Courts: Kaye, 250-255.
4. The Character of the Good Judge: Kaye, 247-250.
5. The Judicial Power of Declaring What has the Form of Law Not to be Law: Kaye, 250-255.
6. The Supreme Court and the Subordinate Courts: Munro, 357-371.

XIX

TERRITORIES AND DEPENDENCIES

An account of the organization of the federal government may appropriately be followed by an account of the governments of our dependent Territories. For, from the beginning of our history to the present, the United States has held territory that has been subject to federal control. This chapter, therefore, will give an account of the manner in which our dependencies are governed.

In the treatment it will be convenient to speak of Territories and Dependencies, but it must not be supposed that the distinction between a Territory and a Dependency is always sharp and clear, for it is not. The student, however, will do well to bear in mind that a Territory is incorporated into and forms a part of the United States, while a Dependency, although belonging to the United States, is not necessarily an integral part of the federal Union.

How Territories and Dependencies are Governed. All territory not included within the boundaries of a State, yet subject to the dominion of the United States, is wholly dependent upon Congress for its governmental powers. This is the fundamental principle underlying all questions relating to the government of territory subject to the sovereignty of the United States and not included within a State. "The Congress," says the Constitution, "shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States" (119). The power of Congress over federal territorial possessions, of whatever kind or wherever located, is practically supreme: "The Territories of the United States are entirely subject to the legislative authority of Congress. They are not organized under the Constitution nor subject to its complex distribution of powers of government as the organic law, but are the creation exclusively of the legislative department and subject to

its supervision and control. The United States, having rightfully acquired the Territories, and having become the only government that can impose laws upon them, have the entire domain and sovereignty, national and municipal, federal and State. It may legislate in accordance with the special needs of each locality and vary its regulations to meet the circumstances of the people. . . . In a Territory all of the functions of government are within the legislative jurisdiction of Congress.”¹

When planning for the government of federal territory from time to time, Congress has dealt with each case according to its merits. Now it has permitted a newly acquired possession to enter into an immediate enjoyment of Statehood; now it has provided liberally for local self-government; now it has held the reins of government tightly in its own hands. This policy of giving to each community a government suitable to its needs has led to the establishment of so many different kinds of governments in the Territories and Dependencies that a satisfactory classification of them can not be made. Nevertheless, the inferior governments may be conveniently studied under two headings, namely: (1) Territories and Dependencies on the American continent, and (2) Insular Territories and Dependencies.

Territories and Dependencies on the American Continent.

These are the District of Columbia, Alaska, Indian Reservations and National Parks, and the Panama Canal strip.

I. District of Columbia. The District of Columbia was ceded to the United States by Maryland and Virginia in 1790, as the permanent seat of the federal government. The portion of the District granted by Virginia was afterward retroceded to that State by the United States. Strictly speaking, the District of Columbia is neither a Territory nor a Dependency; it is simply a municipal corpora-

¹ Endlemen, *et al.*, v. United States. Quoted in Willoughby's "Territories and Dependencies."

tion, with such powers as are common to municipal corporations in general.

The government of the District of Columbia is vested by the Constitution exclusively in Congress (61). That body has provided that it be governed by a board of three commissioners appointed by the President. Two of the commissioners must be appointed from civil life, and one must be an officer of the army. This board not only exercises the executive power, but acts in many respects as a legislature. Its reasonable regulations in respect to matters affecting the life, health, and comfort of the people have the force of laws. Although Washington—the District of Columbia is but another name for the city of Washington—has no distinct legislature of its own, it nevertheless enjoys the services of the greatest legislative body of the country; for Congress keeps its eye upon the affairs of the District and devotes certain days to the consideration of District business. When legislating for the District, Congress virtually acts as a city council, and visitors to the Capitol may hear Senators and Representatives discussing such topics of local government as the repairing of the streets or the regulation of trolley lines or the adjustment of teachers' salaries.

The judicial system of the District consists of a court of appeals, a regular trial court called the supreme court, and a police court for the trial of petty offenses and municipal regulations. Justices of peace are provided for the trial of certain kinds of civil cases. All of these judicial officers are appointed by the President.

The government provided for the capitol city is wholly undemocratic in character. The citizens of Washington are taxed without their consent or the consent of representatives. They have no voice in the making of the laws by which they are governed, and they have no representatives of any kind. The District of Columbia does not even have a delegate in Congress. In recent years the citizens of Washington have grown somewhat restive under the un-

American plan by which they are ruled, and have been asking Congress for the right of local self-government.

II. *Alaska.* This vast peninsula, purchased from Russia in 1867, was neglected until Congress in 1900 provided for it a code of laws and a suitable form of government. In 1912 Congress vested the legislative power of the Territory of Alaska in an elective legislature consisting of a Senate and a House of Representatives. The governor of the Territory is appointed by the President. The governor has the veto power, but his veto may be overruled by a two-thirds vote of all the members of each House. All laws passed by the Territorial legislature must be transmitted by the governor to the President of the United States and by him submitted to Congress. If a law of the Territorial legislature is disapproved by Congress it becomes null and void. In addition to the governor, Alaska has as its other executive officers a secretary of territory, a treasurer, and a superintendent of education. The Territory is divided into four judicial divisions, with a judge for each division.

Alaska has a Territorial delegate in the House of Representatives at Washington. The delegate is the political tie that binds the Territory to the federal government. The Territorial delegate is elected every two years by popular vote. He has a right to a seat in the House of Representatives, and receives the same salary as other members of Congress. He serves on committees and may speak on all questions pertaining to his Territory; but he has no vote.

III. *Indian Reservations and National Parks.* In the management of the territory that has been under its control the national government has from time to time marked off and reserved certain lands for the use of the Indians. Scattered over the country there are in all about one hundred and sixty of these Indian reservations. Some of them have a very large area. The Navaho reservation, in Arizona, has an area considerably larger than the State of Maryland. An Indian reservation is a kind of Dependency

of the United States. The tribes living on a reservation are under the control of Congress. The national government protects the Indians on the reservation against injustice at the hands of the white man, gives them food supplies, and supports schools among them. Indian affairs are under the management of the Indian Office, a bureau in the Department of the Interior.

In the management of its public domain the national government has also set off several large tracts of land to be used as parks. These parks and reservations are under the supervision of the Secretary of the Interior. Some of them have an area of vast extent. The Yellowstone National Park, located in Wyoming, Montana, and Idaho, has an area of more than 2,000,000 acres, and is much larger than the State of Delaware. The Glacier National Park, in Montana, has an area of nearly 1,000,000 acres, and is larger than the State of Rhode Island. Other large parks of this kind are the Platt National Park, in Oklahoma; the Yosemite National Park, in California; the Mount Ranier National Park, in Washington; the Crater National Park, in Oregon. Each of these parks has a resident superintendent.

IV. *The Panama Canal Strip.* The Panama Canal Strip was acquired from the Republic of Panama in 1904. It consists of a zone of land of the width of ten miles, extending to the distance of five miles on each side of the central line of the route of the Panama Canal. The region has been placed under the control of a governor, who is appointed by the President. The canal itself is absolutely neutral, being free and open to the vessels of commerce and war of all nations. The toll rates on the canal are the same for the vessels of all nations; and the vessels of no nation, not even those of the United States, are exempted from the payment of tolls. It is provided by treaties that the canal shall never be blockaded and that no act of hostility shall ever be committed in it. War-ships must pass through the canal with the least possible delay, and

no belligerent vessel while in the canal may embark or disembark troops or munitions of war.

Insular Territories and Dependencies. These are: Hawaii, annexed by a joint resolution of Congress in 1898 (July 7); Porto Rico, occupied July 25, 1898, by military forces of the United States under General Miles; the Philippine Islands, occupied August 13, 1898, by military forces under Admiral Dewey; Guam, seized by the United States navy during the war with Spain in 1898; certain islands of the Samoan group acquired by treaty in 1900; and the Virgin Islands, purchased from Denmark in 1917.

I. *Hawaii.* The Hawaiian Islands are governed, under the name of the "Territory of Hawaii," by an act of Congress passed in 1900. The act provides for a territorial form of government consisting of a legislative, an executive, and a judicial department. The legislature consists of a senate and a house of representatives whose members are elected by the voters of Hawaii. The executive power is lodged in a governor and a territorial secretary appointed by the President. An attorney-general, a treasurer, a superintendent of public instruction, an auditor, and several other administrative officers are appointed by the governor and confirmed by the senate of Hawaii. The Territorial courts consist of a supreme court and circuit courts, the judges of which are appointed by the President. Hawaii is represented in Congress by a delegate who is elected biennially by the people. The act annexing Hawaii conferred upon the citizens of Hawaii the rights of citizens of the United States.

II. *Porto Rico.* The organic act establishing the present government of the island of Porto Rico was passed by Congress in 1917. The act contains a bill of rights which accords to the citizens of Porto Rico civil rights similar to those enjoyed by citizens of the United States. Legislative power in the island is vested in a legislature consisting of

a senate and a house of representatives. Both senators and representatives are elected by the voters. A law passed by the legislature may be vetoed by the governor, but the veto may be overruled, and if it is overruled the law is sent to the President for approval or disapproval. The executive power in the island is vested in a governor appointed by the President. The President also appoints an attorney-general and a commissioner of education. A treasurer, a commissioner of the interior, a commissioner of agriculture and labor, and a commissioner of health are appointed by the governor.

The judicial system of the island consists of a supreme court composed of judges appointed for life or good behavior by the President; of district courts presided over by judges appointed by the governor; and of municipal courts whose judges are elected by the people.

The organic act of Porto Rico provides that the voters of the island every two years shall elect a commissioner, who shall be entitled to official recognition as such by all the departments at Washington. This commissioner, in the intention of the law, is plainly not a delegate; yet, by the grace of the House of Representatives, he has been accorded the right to speak in that body and to serve on its committees. For all practical purposes, therefore, he is in reality a Territorial delegate, although Porto Rico can hardly be said to be a Territory, for it is hardly an integral part of the United States. Under the act of 1917, inhabitants of Porto Rico not citizens of a foreign country were declared to be citizens of the United States.

III. *Philippine Islands.* In February, 1899, after the Philippine Islands had been ceded to the United States by the Treaty of Paris, the following resolution was passed by Congress:

Resolved, etc., That by the ratification of the treaty of peace with Spain, it is not intended to incorporate the inhabitants of the Philippine Islands into citizenship of the United States, nor is it intended

to permanently annex said islands as an integral part of the territory of the United States; but it is the intention of the United States to establish in said islands a government suitable to the wants and conditions of the inhabitants of said islands, to prepare them for self-government, and in due time to make such disposition of said islands as will best promote the interests of the citizens of the United States and the inhabitants of said islands.

In accordance with the spirit of the above resolution, Congress has given to the Filipinos the form of government that has seemed best suited to their needs, changing the form from time to time as conditions on the islands have changed. At present (1920) the legislative power in the Philippines is vested in the Philippine legislature, which consists of two houses, a senate and a house of representatives. Both senators and representatives are elected by the qualified voters. The members of both Houses of the legislature must be residents of the islands. Any law enacted by the legislature must be affirmed by the governor-general, who may veto a law, but whose veto may be overruled by the legislature. A law passed over the head of the governor-general is sent to the President for approval or disapproval. If the President approves, it becomes a law; if not, it does not become a law. The executive power in the islands is vested in the governor-general of the Philippine Islands, an officer appointed by the President. The President also appoints a vice-governor, who is the head of the department of education, and an auditor, who keeps the government's accounts.

The Philippine Islands have no delegate in Congress, yet they are permitted to send to Washington two commissioners, who appear before the committees of Congress and represent the interests of the islands.

The judicial system of the islands includes a supreme court, consisting of a chief justice and six associate justices, courts of general trial for the provinces, and justices' courts for the municipalities. The judges of the supreme court are appointed by the President of the United States, but the judges of the provincial courts and the justices of

the peace are appointed by the governor of the island. Cases may be carried by appeal from the supreme court of the island to the Supreme Court of the United States.

The archipelago is divided for governmental purposes into provinces, and the provinces into municipalities. Each province has a governor, a secretary, a treasurer, and a supervisor of public buildings, roads, bridges, and ferries. The provincial officers, with the exception of the governor, are appointed by the commission. The municipality has a mayor and a body of municipal councilors elected by the qualified voters of the municipality. These municipal councilors elect the governor of the province. In respect to local affairs government in the Philippines is of the centralized type; for the commission has large control over the province, and the province has large control over the municipality.

IV. *Guam and Samoa (Tutuila)*. Governmental power in the islands of Guam and Samoa is vested in the naval officers who happen to be in command of the naval station. As a matter of fact, the inhabitants of the islands in a large degree govern themselves. At times, however, it is necessary for the naval officer to interpose his authority, and upon such occasions his orders have the force of laws.

V. *Virgin Islands*. The Virgin Islands were acquired as a base for naval operations, and are under the direct control of the Navy Department.

Attitude of the United States toward Its Dependencies.

The extension of our political influence into Porto Rico and the Philippines was perhaps an unavoidable incident in our growth as a nation. Certainly, for good or for evil, we have made these islands our wards, and our duty in respect to them ought to be clear: we ought to administer their affairs, not with a view to *our own* advancement, but with a view to *their* advancement and profit. Such a policy is in accordance with the American spirit. The United States has always been the possessor of large regions of

dependent territory, but it has never oppressed its dependencies, and has never regarded them as fields to be exploited for the sole benefit of citizens at home. It has always promoted the welfare of its wards, and accorded to them as large a measure of self-government as was practicable. This has been our policy in the past, is our avowed policy now, and will continue to be our policy as long as we are true to our best political instincts.

QUESTIONS ON THE TEXT

1. To what extent has Congress power over Territories and Dependencies? How has it used this power?
2. Name the Territories and Dependencies on the American continent.
3. Give an account of the government of the District of Columbia; of Alaska; of the Panama Canal Strip; of the Indian Reservations and the National Parks.
4. Name the insular Territories and Dependencies.
5. Describe the government of Hawaii; of Porto Rico; of the Philippine Islands; of Guam and Samoa.
6. Describe the attitude maintained by the United States toward its dependencies.

SUGGESTIVE QUESTIONS AND EXERCISES

1. Name the Territories properly so called; name the Dependencies.
2. Prepare a table showing the population and area of each of the Territories and Dependencies and give the totals.
3. Name the Territories in the order in which they are likely to be admitted as States.
4. What does the Constitution say about Indians?
5. Why was the capital of the United States placed under the exclusive control of Congress?
6. Prepare a paper about the city of Washington, giving the municipal history of the city, and describing its public buildings, its monuments, and its environs.
7. What measures are usually taken by Congress for the admission of a Territory into the Union?

TOPICS FOR SPECIAL WORK

1. The Power to Acquire Territory and to Govern Acquired Territory: Johnson, 236-245.
2. The Government of Federal Territories: Johnson, 142-150.
3. The Power of Congress over Territories: Beard, 417-420.
4. The Government of Territories: Munro, 372-388.

XX

THE STATE LEGISLATURE

Having described the organization of the federal government, we may now pass to the organization of the State. The subject of State organization involves a study of (1) the State legislature; (2) the State executive; and (3) the State judiciary. In this chapter we shall study the State legislature.

General Features of State Legislatures. In outward form, at least, the legislature of one State, although it may be widely separated by distance, and although it is created independently, is very much like that of another State. All legislatures meet at the State capitol. The upper house is always called the senate, and its membership is always smaller than that of the lower house, which is usually called the house of representatives. The term of members of the house of representatives is usually two years, while the term of senators is usually four years. In all of the States members reside in the district that they represent; in nearly all of the States the legislature meets every two years, the sessions beginning usually in January; in all of the States the compensation of members is the same for both houses; in forty-seven States a law passed by the legislature can be vetoed by the governor, and the veto can be overcome by a majority vote, or by a three-fifths or two-thirds vote of both houses; in every State each house is the judge of the qualifications and election of its own members; in nearly every State members, whether of the senate or of the house, are apportioned according to population.

Passage of Bills. Upon assembling, each House of a newly elected legislature elects its presiding officer. In

the lower house this officer is called the speaker; in the senate he is called chairman or president. In many of the States there is a lieutenant-governor, who presides in the Senate but does not vote except when there is a tie. As soon as a clerk, a sergeant-at-arms, doorkeepers, messengers, and other minor officers have been elected, the presiding officer of each House announces the committees, which are as numerous as the interests and subjects that engage the attention of the legislature, the most important being those on finance, corporations, municipalities, the judiciary, appropriations, elections, education, labor, manufactures, agriculture, railroads. The committees are agencies of the utmost importance, for they are the channels through which all legislation must pass.

Any proposed law, called a bill, immediately after it is introduced and read, is referred to its proper committee. The committee considers the bill in a private room, where citizens may appear to defend or oppose it, and if it thinks the bill ought not to become a law it reports it unfavorably, and thus usually kills it. It is possible to pass a bill after it has been thus unfavorably reported, but this is rarely done. The judgment of the committee is practically final. If the bill is reported favorably, its title is read and it is allowed to pass upon its *second* reading. In its regular order it comes up for its *third* and last reading. Now it is read in full, amended perhaps, and voted upon. If it fails to get a majority of the votes, that is probably the last of it. If it receives a majority of the votes, it is sent to the other branch to be acted upon.

Here it is referred by the presiding officer to its proper committee, is read three times upon three different days, is fully discussed upon its last reading, and is then voted upon. If it passes without amendments made in this second branch, it goes to the governor to be signed by him. If it passes with amendment, it must be returned to the House in which it originated to be voted upon in its amended form. If it passes in the House in that form, it becomes,

as far as the legislature is concerned, a law. If there is trouble over the amendment, a joint committee, or conference committee, consisting of a small group of members from each House, is appointed to see what can be done to settle the matter. The action of this committee, if it reaches an agreement, is usually accepted by both Houses. A bill may originate in either House, but, as a rule, bills for raising revenue must originate in the Lower House, because this branch is supposed to be closer to the taxpayers.

After a bill has passed both Houses it is sent to the governor for his approval. In order to guard against hasty and unwise legislation, and especially against encroachments of the legislature upon the other two departments, the governor, like the President of the United States, can (in all but one State) forbid the passage of a bill by his veto. When he does this he sends the bill back, with his objections stated in writing, to that branch of the legislature that sent it to him. The returned bill may be voted upon again, and if it can secure the number of votes required by the constitution in such cases, it becomes a law in spite of the governor's veto.

Importance of State Legislation. We have seen how wide is the range of power reserved to the State government (p. 55). The State legislature determines how these powers are to be exercised. The only limitations of its power are those imposed by the constitution of the State, and by the Constitution, laws, and treaties of the United States (127). Within these limits it is at liberty to enact laws upon any subject that may come within the scope of governmental authority. The powers of Congress are enumerated; the powers of a State legislature are innumerable. When we say that a State legislature grants charters to cities, boroughs, towns, villages, railroads, banks, colleges, seminaries, and other institutions public and private; that it defines the boundaries of counties and towns; that it regulates taxes, licenses, fees; that it enacts

punishment for treason, murder, arson, theft, kidnapping, bribery, forgery, fraud, perjury, and other crimes; that it makes laws concerning the sale of land, the giving of mortgages, the granting of deeds, the making of wills, the settlement of the estates of bankrupts, the management of the estates of the dead; concerning education, charity, health, marriage, divorce; concerning voting and elections; concerning railroads, steamboats, canals, telegraph and telephone companies; concerning farming, fishing, mining, manufacturing, trading—when we say this much of the legislature, we may make it plain that its authority is very great, but we by no means exhaust the list of things it does.

The State Legislature and the State Constitution. There has been a tendency in recent years to strip the legislature of some of its power by inserting into the constitution, either by way of amendment or in constitutional convention, specific restrictive provisions concerning matters with which legislatures should be free to deal in the manner best suited to the necessities of the moment. The constitution of one State prescribes to the legislature how it shall purchase its stationery, as if this body could not be trusted to do this wisely. It is quite certain that a constitution is not the place for such special provisions. A constitution should mark out a path for legislation, but should not contain the laws themselves. A legislature should be restrained by the constitution in all fundamental matters, in all matters that involve the framework of government and the principles of civil liberty; but in all other matters it should be given a wide discretion. Frequently a legislature is so hampered by the constitution that it cannot pass needful laws. When this is the case there have been placed in the constitution items of a non-constitutional nature.

These details are placed in the constitution beyond the reach of the legislature because of the distrust that has overtaken that body. For many years, in private con-

versation, in newspapers and in books, on the platform and in the pulpit, law-makers have been denounced as grasping, stupid, and corrupt. It has become almost a fixed habit for the American people to abuse their legislatures. The habit is unreasonable and unjust: unreasonable because the legislatures, taking them one after another through a considerable period of time, fairly represent the people who elect them; unjust because, as a matter of fact, no legislature is largely stupid or corrupt. In all legislatures the average ability of membership is high, and in the worst legislature an overwhelming majority of the members are honest men.

But it ought not to be understood that all the criticism that is directed against our legislatures is unmerited. For there is a dark side to their proceedings. Too often they are subjected to the malign influence of corrupt lobbyists, men who frequent the legislative halls for the purpose of persuading the law-makers, by giving them bribes or by offering other improper inducements, to vote for bills designed to promote purely selfish interests. Then, too, it is regrettable that the legislator often indulges in the bad practice called "log-rolling." In pioneer days, when a settler had a great number of logs to be rolled together and burned in a heap, he would say to his neighbors, "You help me to roll my logs, and I will help you to roll yours." So, in the legislature, one member often says to another, "You help me to pass my bill, and I will help you to pass yours"; and a scheme of mutual assistance is agreed upon. Too frequently this log-rolling process results in vicious legislation and in a sacrifice of the public welfare.

Direct Legislation; Initiative and Referendum. As a remedy for the real and supposed shortcomings of the legislatures, there has been brought into use in many States a political device by which the people may themselves engage, personally and directly, in the business of law-mak-

ing. This device is known as the *initiative and referendum*. The nature of the power that the people may exert through the initiative and referendum may best be learned from a clause in the constitution of one of the States, in which a system of direct legislation is in full force:

The legislative authority of this State shall be vested in a legislature consisting of a Senate and a House of Representatives; but the people reserve to themselves the power to propose laws and amendments to the constitution, and to adopt or reject the same at the polls, independent of the legislature, and also reserve power at their own option to approve or reject at the polls any act of the legislature. . . . The first power reserved to the people is the Initiative, and 8 per cent. of the legal voters shall have the right to propose any measure, and 15 per cent. of the legal voters shall have the right to propose amendments to the constitution, by petition, and every such petition shall include the full text of the measure proposed. The second power is the Referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health, or safety) either by petition signed by 5 per cent. of the legal voters or by the legislature as other bills are enacted. . . . The veto power of the governor shall not extend to measures voted upon by the people. . . . Any measure referred to the people by the initiative [or the referendum] shall take effect and be in force when it shall have been approved by a majority of votes cast in such election. . . . The referendum may be demanded by the people against one or more items, sections, or parts of any act of the legislature, in the same manner in which such power may be exercised against a complete act.

The constitutional clause just quoted shows that the device of the initiative and referendum gives life and power to the old right of petition (p. 80). If a considerable number of voters (usually from 5 to 8 per cent.) in any State desire a certain law, the initiative enables them by petition to bring the measure before the electorate to be voted upon. If a considerable number of voters are opposed to a law passed by the legislature, the referendum enables them to have the law referred to the decision of the electorate. Thus the initiative is a positive or constructive force: it enables the voters to secure what they want. The referendum is a negative or preventive force: it enables voters to veto laws that they do not want.

The initiative and referendum, in one form or another,

has been adopted in South Dakota, Oregon, Montana, Oklahoma, Maine, Missouri, Arkansas, Colorado, Arizona, New Mexico,¹ California, Nevada, Michigan, Ohio, Nebraska, Utah, Washington, Idaho, North Dakota, Kansas, Louisiana, Massachusetts, and Maryland.¹

In several of the States direct legislation has been put to an exhaustive test and has proved to be a success. In all of them it is a "gun behind the door to be used in case of emergency." But it is never an automatic gun. The initiative and referendum is a democratic device that will not work at all until the people bestir themselves and take it into their hands and work it. The advantages of direct legislation are many, but they can be enjoyed only in those States where the people by instinct and tradition are intensely democratic, where the popular interest in public affairs is keen, universal, and sustained, and where the average of popular intelligence is very high.

QUESTIONS ON THE TEXT

1. In what respects do the legislatures of the different States resemble each other?
2. Give a general account of the organization of a State legislature.
3. How does a bill become a law?
4. Upon what subjects may the legislature pass laws?
5. In what way is the action of legislation sometimes hampered? Why is this unfortunate?
6. What can you say of the popular distrust that has overtaken our legislatures? Name two evils connected with law-making.
7. What is the initiative and referendum? To what extent is direct legislation brought into use?

SUGGESTIVE QUESTIONS AND EXERCISES

(Answers to many questions in this chapter and also in several of the following chapters may be found in the State constitution.)

1. What is the name of the lower house of the legislature of this State? What is the name of the legislature taken as a whole? Where and how often does the legislature meet?
2. What are the qualifications of senators in this State as to age, citizenship, and residence? What are the qualifications of members of the Lower House? Under what circumstances is a per-

¹ New Mexico and Maryland have the referendum but not the initiative.

son disqualified for membership in the legislature? What pay do the members of the legislature receive for their services?

3. What is the nature of the oath taken by a member of the legislature in this State?

4. What provision does the constitution make in respect to the number of senators? In what manner are the senators apportioned to the cities and counties? What provision is made in respect to the number of representatives? How are they apportioned to the cities and counties? Is there any question as to the fairness of this method of apportionment in this State? If the method is unjust, how may a remedy be found?

5. Describe the manner in which each of the Houses is called to order and organized on the first day of a session. What constitutes a quorum in each House? How may a person who is disorderly or disrespectful in the presence of the senate or the Lower House be punished? Does the legislature sit in secret or in open session?

6. In whose name are the laws of the State enacted? Describe the passage of a bill from the time it is introduced until it becomes a law. To what extent is the initiative and referendum recognized in the constitution of the State?

7. (In many States the constitution forbids the legislature to pass *special* laws in reference to certain enumerated subjects; that is, when it passes a law in reference to any one of such subjects the law must operate not upon certain specified individuals or localities, but must be uniform in its operation throughout the State.) Name the subjects upon which the legislature of this State is not permitted to pass special laws.

8. Describe the process of impeachment in this State. How may a member of the legislature be punished for unfaithful service?

9. What general prohibitions are placed upon the powers of the legislature of this State by the constitution? Does it seem that some of these prohibitions are unreasonable?

10. Bound the senatorial district in which you live and name your State senator.

11. Is the capital of this State conveniently located? How can its location be changed?

12. Discuss fully each of the following sentences: (a) For good or for evil, the legislature affects us in almost every relation of daily life. (b) When the people generally condemn their legislators they virtually condemn themselves. (c) We can not elect able and skilful legislators; we can elect able and prudent men and reelect them until they become able and skilful legislators. (d) The position of the law-maker is a difficult one, for he must try to promote the interest of his locality and also the general welfare, and these often clash. (e) When we hear that legislators have received bribes, a part of our indignation should be hurled against those who have given bribes.

13. If direct legislation is in operation in this State, answer the following questions: In what year was the initiative and referendum adopted? What per cent. of the voters is required for setting in motion the initiative where a law is asked for? Can the consti-

tution be amended through the initiative? If so, what per cent. of voters is required? What per cent. of the voters is required for setting in motion a referendum? Is the initiative and referendum a success in this State? Name the good features of direct legislation. Is direct legislation consistent with representative democracy?

14. What is a legislative reference bureau? Has the legislature of this State such a bureau?

15. In many States there is published by State authority a State Manual or Year-Book. A copy of this Manual ought to be available for class use. It can probably be secured by writing to the Secretary of State at the State capital.

TOPICS FOR SPECIAL WORK

1. Legislation by the Electorate: Holcombe, 401-441.
2. The State Legislatures: Holcombe, 240-278.
3. Direct Legislation: Jones, 338-351.
4. The Lobby: Reinsch, 79-84.
5. Methods of Legislation: Reinsch, 74-79.
6. The Functions of Legislatures: Gettell, 357.

XXI

THE STATE EXECUTIVE

In every State there is a State executive department, organized to carry out the provisions of the constitution and the laws of the legislature. What, in general, are the characteristic features of the executive department of a State government, and what are the outlines of its organization?

Decentralization of Executive Power in the State. The administration of affairs that come within the power of the State government differs widely from the administration of national affairs. In the executive department of the federal government power is consolidated, centralized; almost everything is in the hands of the President. He appoints the heads of the departments and, directly or indirectly, all subordinate officers. His responsibility, is of course, as great as his power. If the administration of the affairs of the United States is successful the President receives the credit; if it is ill-fated he receives the censure.

It is not thus in the State. Here power in the executive branch is scattered, decentralized. The execution of the laws of a State is not given to one person or to one body of persons, but is intrusted to various officials and various bodies. The greater part of governmental business in a State is not administered by State officers at all, but by local governments—cities and counties and townships and villages. State laws that pertain to special branches of administration are distributed to many different State officers and boards to be executed; and very often these officers and boards are elected by the people and are not responsible for their conduct to an authority that is higher than themselves. Thus there are engaged in the execu-

tion of the laws of the State many different officers, each independent of the others and each standing on his own statute. The highest officer himself (the governor) has been called the captain of a ship of state that is managed by a crew he does not select and over which he has few powers of command.

Chief State Executive Officers. The officers whose duties consist in carrying out the laws pertaining to State administration constitute the executive department of the State. Since this department is organized according to the particular needs of each State, we are prepared to find it differing in its details in the several States. The outlines of the executive department, nevertheless, are nearly the same in all of the States. Every State has a governor (thirty-three States have a lieutenant-governor), a secretary of state, and a treasurer; almost every State has a comptroller, or auditor, an attorney-general, and a superintendent of education. The length of the terms of service of these officers, the manner of their election or appointment, and their qualifications and salaries are regulated by the constitution or by statute. Their duties, which do not vary widely from State to State, are as follows:

I. *The Governor.* (1) The first duty of the governor is to take care that the *laws are faithfully executed*. This may mean much or little. In reference to private law, the law that regulates the relations between man and man, and in reference to the peace and good order of the State, it means much; for the governor is commander-in-chief of the military forces of the State, and he can call upon the soldiers to assist him in enforcing the judgment of a court or in suppressing riots and disorderly proceedings (p. 252). In reference to the laws regulating the business of the special departments it frequently means but little; for, as we have seen, the officers of these departments are often elected independently of the governor and are themselves the authorized executors of the laws relating to their respec-

tive departments, and whether they administer the law well or ill the governor has no control over them.

(2) Another duty of the governor is to transmit to the legislature a *message*, informing it of the condition of affairs within the State and suggesting such legislation as he may deem wise. The legislature, however, is not bound to follow the suggestions made in the message or even to consider them. If the legislature is not in session and the governor thinks certain legislation urgent, he may summon it to meet in *extra session* and lay before it the measures that demand immediate consideration.

(3) In many States the governor has the pardoning power, which it is his duty to exercise when he thinks a person has been unjustly convicted of crime. His pardon may be absolute or he may *commute* the punishment. For good reason he may grant *reprieves*. In a few States the power of pardon, commutation, and reprieve is not left to the governor, but is vested in a special body of officers known as the board of pardons.

(4) In every State it is the duty of the governor to appoint many officials whose selection is not otherwise provided for. When an elective official dies or resigns before his term ends, the governor fills the vacancy by appointing some one to serve until another election is held. When vacancies occur in the representation of the State in Congress, he issues writs for a new election (12, 162). In the case of a vacancy in the Senate he may make a temporary appointment, if so authorized by the legislature (162).

(5) It is the duty of the governor to check hasty or corrupt or unwise legislation by interposing his veto, a power given to the chief executive in all of the States except one. It is in the veto and in the power of appointment that the governor finds most of his strength as a leader. His power to veto a measure often enables him to hold a whip over the legislature. "Many bills," says Holcombe, "which it is known the governor will not approve will not be adopted by the legislature, or will be amended, in the hope

of removing the ground of executive disapproval. Legislators may even support measures known to be favored by the executive in order to avoid executive disapproval of private and local bills in which they may be especially interested. Since the effectiveness of the veto power is a matter of common knowledge, the promoters of legislation often seek executive approval of proposed legislation before its introduction into the legislature.”¹

(6) The governor performs numerous duties of a social nature. He opens fairs, dedicates public buildings, presents diplomas to the graduates of normal schools and colleges, and honors important celebrations and meetings with his presence.

II. *The Lieutenant-Governor.* This officer serves when the governor is out of the State or is incapacitated for duty. He is *ex officio* president of the senate, and when a vacancy occurs in the governorship he succeeds to the office. In those States where there is no lieutenant-governor the president of the senate usually succeeds to the governorship in case of a vacancy.

III. *The Secretary of State* records the official acts of the governor and files the laws passed by the legislature. He has charge of all State papers, of the journals of the legislature, and of the historical documents, statuary, paintings, relics, etc., owned by the State. This officer may properly be called the chief clerk of the executive department.

IV. *The State Comptroller (or Auditor)* manages the financial business of the State. He prepares plans for the improvement and management of revenue, reports estimates of the revenue and expenditures of the State, and enforces the prompt collection of taxes. He keeps an account of all the money paid into the treasury and all drawn from it. Not a dollar can be taken from the treasury without his order. As a rule, it is his duty to see that those charged with the collection of revenue of the State are

¹ A. N. Holcombe, *State Governments in the United States*, p. 329.

responsible persons and are properly bonded. In a few States the comptroller serves on one or more State boards.

V. *The State Treasurer* has in his keeping the money paid into the State treasury. His principal duties are to receive the State funds, place them where they will be safe, and pay them out as he is ordered by the comptroller. Like the comptroller, the treasurer sometimes serves upon State boards.

VI. *The Attorney-General* is the law officer of the State. He appears in court for the State when it needs the service of a lawyer, and he gives legal advice to executive officers when he is called upon to do so.

VII. *The Superintendent of Public Instruction* stands at the head of the public-school system of the State. He reports to the governor or to the legislature the condition of educational affairs throughout the State, visits teachers' institutes and other educational meetings, delivers lectures upon educational topics, inspects schools, suggests methods of teaching and courses of instruction, and promotes the cause of education in many ways. In some States he prescribes the qualifications of teachers and issues their certificates, and supervises the distribution of the school funds. In a few States the executive authority in reference to the public schools is vested in a State board of education. Where this is the case the superintendent of instruction is simply an agent of the board.

The foregoing officers are found in almost every State. The governor and the lieutenant-governor—where there is one—are elected by the people always, and the attorney-general, secretary of State, treasurer, and auditor nearly always. Officers not elected by popular vote are in some cases appointed by the governor and in other cases chosen by the legislature.

Other Executive and Administrative Officers. In addition to the principal State officers whose duties have just been described, there are in many States still other

executive and administrative officers and boards; for each State has such an organization as is required by its special needs. A list of the most important of these additional officers follows, the nature of their duties being suggested by their titles:

- (1) State Insurance Commissioner.
- (2) State Commissioner of Agriculture.
- (3) State Board of Public Utilities.
- (4) State Tax Commissioner.
- (5) State Highway Commissioner.
- (6) State Railroad Commissioner.
- (7) State Board of Charities.
- (8) State Board of Education.
- (9) State Factory Inspector.
- (10) State Labor Commissioner.
- (11) State Board of Public Works.
- (12) State Board of Health.
- (13) State Board of Medical Examiners.
- (14) State Board of Pardons.
- (15) Adjutant-General.
- (16) State Inspector of Mines.
- (17) State Commissioner of Fisheries.
- (18) State Commissioner of Navigation.
- (19) State Hygiene Physician.
- (20) State Fire Marshal.
- (21) State Board of Bank Examiners.
- (22) State Industrial Board.

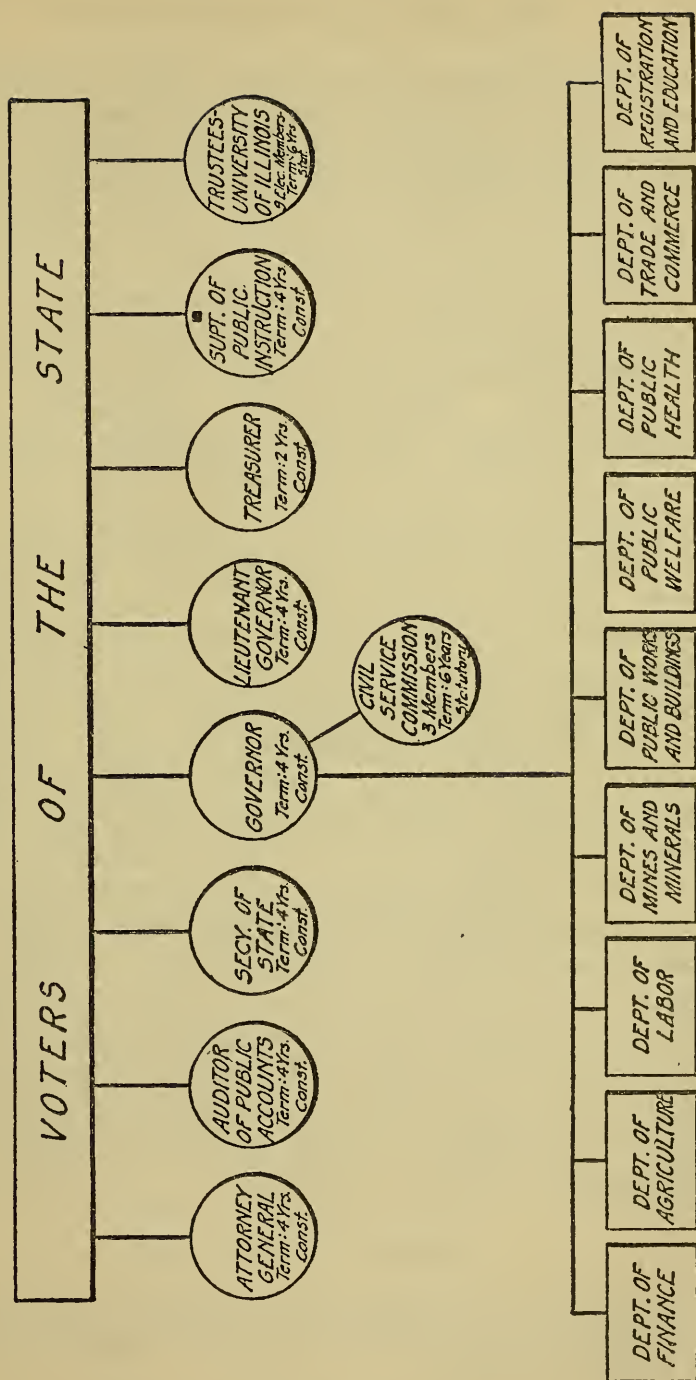
No State has every one of the above officers, but every State has a few of them. As in the case of the principal executive officers, so in the case of these others, the method of choice varies: sometimes the people elect; in most cases the governor appoints; and in a few cases the legislature elects. Besides the major and minor officials there are in the services of the State such assistants, secretaries, stenographers, clerks, librarians, and employees of various

kinds as may be necessary for the efficient working of the several departments. In large and populous States, such as New York, Pennsylvania, Ohio, and Illinois, the employees of the State government are numbered by the thousands.

Consolidation of State Administrative Offices. In order to secure economy and efficiency in the management of the affairs of the State government, there is a tendency in an increasing number of States to consolidate the administrative offices into a few coördinate departments with heads appointed by the governor and responsible to him. For example, in Illinois more than one hundred and twenty-five boards, commissions, and independent agencies have been organized and consolidated into nine great departments: namely, finance, agriculture, labor, mines and minerals, public works, public welfare, public health, trade and commerce, and registration and education. At the head of each department is a director appointed by the governor with the approval of the senate. After two years of experience the governor of Illinois, speaking of the consolidation plan, said: "It has more than justified all the expectations that were formed concerning it. Unity and harmony of administration have been attained and vigor and energy of administration enhanced." Idaho, Nebraska, and Massachusetts have governments organized on the consolidated plan, while the governors in a number of States, notably those of Indiana, Vermont, North Carolina, Michigan, Minnesota, Nevada, and North Dakota, have recommended to their legislatures the consolidation of the State administrative offices.

Removal of State Officers. The usual method of removing State officers is to resort to the process of *impeachment*. For corrupt conduct in office, or for crimes and misdemeanors, any State officer may be impeached by the house of representatives. The impeachment is tried by the sen-

ORGANIZATION OF STATE ADMINISTRATION (ILLINOIS)



ate, where the concurrence of two thirds of the members elected is necessary for conviction. Judgment in case of impeachment extends no further than removal from office; but the officer convicted is liable to be brought into court and tried for his offenses according to law. The process of impeachment plays no important part in State affairs. It is sometimes brought into use for the removal of unworthy governors, yet in our entire history there have been only eight cases of the impeachment of governors.

In Nevada, Idaho, Oregon, Michigan, Colorado, Louisiana, Arizona, California, Washington, and Kansas, State officers may be removed by the device known as the *recall*, although in four of these States (Michigan, Louisiana, Idaho, and Washington) the device does not apply to judges. The aim of the recall is to give the people complete control over the officers whom they have elected. Where the recall is in use, the voters, upon the complaint or petition of a certain number of citizens, say 20 or 25 per cent. of the voting population, vote upon the question whether a certain officer shall be deprived of (recalled from) his office before the end of his term. When an officer is removed by the operation of the recall, the vacancy is filled by holding a special election, at which the officer removed may be a candidate if he so desire. The recall is a mild form of impeachment. In the case of impeachment the accused officer is tried by the legislature; under the procedure of the recall the accused is tried by the whole body of voters. The recall is seldom brought into use; yet, like the initiative and the referendum, it serves the purpose of a "gun behind the door for use in emergencies."

QUESTIONS ON THE TEXT

1. Contrast federal executive power with State executive power.
2. Name the State officials that are found in almost every State.
3. What are the duties of the governor? Discuss fully the subject of the veto power.
4. What are the duties of the lieutenant-governor? of the secre-

tary of State? of the State comptroller (or auditor)? of the State treasurer? of the attorney-general? of the superintendent of public instruction? How are these officials chosen?

5. Name some of the other executive and administrative officials.

6. What has been done in the way of consolidating State administrative agencies?

7. Describe the process of impeachment. Describe the recall.

SUGGESTIVE QUESTIONS AND EXERCISES

1. Which of the higher officials of this State mentioned in the text derive their authority from the constitution? From what sources do the others derive their authority?

2. State the qualifications, term of office, salary, and chief duties of the several State officials provided for in the constitution; also state which of these are elected by the people and which are appointed.

3. Which of the additional officials mentioned in the text are found in this State? Why do not all the States have officials of the same character?

4. Has the governor of this State the veto power? If so, how may his veto be overcome?

5. Under what circumstances may the governor remove an official?

6. Is the tendency in this State to give much or little power to the governor? Is this tendency fortunate or unfortunate?

7. Name the chief executive officials of this State. In what sense are these officers representatives?

8. What are some of the qualifications of a good governor? a good comptroller? a good attorney-general? a good State superintendent of instruction?

9. Has the governor of this State the pardoning power? Is the pardoning power an executive or a judicial function?

10. In which of the three departments of the government of this State do the people take the most pride? In which do they take the least pride?

11. What officers of this State would be best fitted to serve as the President of the United States? What officer would be best fitted to serve in the President's Cabinet?

12. What provision is made in the constitution of this State for the impeachment of officers? Compare the process of impeachment with the procedure of the recall.

13. Ought there to be a consolidation of offices in this State?

14. Fill out the following scheme for the executive department of the State:

TITLE	NAME OF PRESENT INCUMBENT	APPOINTED OR ELECTED?	TERM OF OFFICE?	SALARY?	DUTIES?
Governor					
Lieutenant- Governor					
Secretary of State					
Treasurer					
Comptroller or Auditor					
Attorney- General					
Superintendent of Education					

TOPICS FOR SPECIAL WORK

1. The State Executives: Holcombe, 280-342.
2. The Recall: Jones, 351-354; Munro, 518-521.
3. The State Governor: Kaye, 271-275.
4. Public Service Commissions: Kaye, 275-281.
5. The Reconstruction of State Government: Munro, 522-534.

XXII

THE STATE JUDICIARY

In every State there is a fully organized system of courts, which is entirely independent of the federal courts and which administers justice in cases coming within the scope of the laws of the State. How is the State judiciary organized? What are its powers, and what part does it play in our civil life?

Selection of the State Judiciary. In colonial times the judges were usually appointed by the colonial governor. After independence was declared each State retained the system of courts to which it had been accustomed, but under the new constitutions eight States vested the election of judges in the legislature, while five gave the appointment of them to the governor. Early in the nineteenth century, Georgia, venturing upon a policy hitherto unknown in the history of politics, intrusted the election of its judges to the people. As democracy grew stronger the people began to demand the privilege of electing their judges as well as their other officers, and the example set by Georgia came to be generally followed, especially in the new States. At the present time in more than five sixths of the States the judges are chosen by the voters. In the other States they are either appointed by the governor or chosen by the legislature.

The Several Grades of State Courts. The names of the several grades of State courts, and the jurisdiction of each, the method of choosing the judges, their qualifications, their salaries, their term and tenure of office, and other important matters pertaining to the judiciary are usually prescribed in the State constitution.

Since the judicial department of a State is organized in accordance with the necessities and traditions of a particular region, we must not expect to find the system of any two States precisely alike. The work of a State court, however, is everywhere the same: it administers justice in cases that come within the scope of State laws, and these are the laws that relate to most of the affairs of daily life (p. 155). In the administration of justice in the State it has been found convenient in all of the States to have at least three grades of courts:

I. *The Justice's Court.* This court, the lowest in the series, is held by a justice of the peace, and may be called the court of the neighborhood, for in every community it is near at hand to administer justice in small affairs. In it are tried petty misdemeanors and civil cases involving small sums of money. In the trial of trivial offenses and of civil cases involving but a small sum of money the decision of the court is usually final, but when its judgment inflicts a severe penalty or involves a considerable sum of money an appeal may be taken to a higher court. In cities, police courts, sometimes called municipal, sometimes magistrates', courts, are often established for petty criminal cases. Where the police court exists side by side with the justice's court, the latter tries only civil cases.

II. *The Circuit or District Court.*¹ Next above the justice's court is a tribunal usually known as either the circuit or district court, although in some States it is called the superior court, and in others the court of common pleas. This court of the second grade may be called the court of the county, for in almost every State it is held in the county court-house at the county-seat. It must not be understood, however, that the jurisdiction of the judges of this court is limited to a single county. A circuit (or district) usually includes several counties, and the judges of a circuit go from county to county to hold court. In

¹ The student should be careful not to confuse a district court of the State with the District Court of the federal system.

rural districts this court tries both civil and criminal cases, but in the larger cities there is generally a criminal court of corresponding grade for the trial of the criminal cases. A very large city may have an elaborate system of courts of its own, organized with the view of meeting the city's needs.

These courts of the second grade are the centers of most of the judicial business of the State. They are the general trial courts. In them are tried the weightier cases of the law. They review the cases appealed from the justice's court, and they have original jurisdiction in serious criminal cases and in important civil cases.

It is in these courts, too, that the jury figures most prominently as an agency of justice. Juries are of two kinds, grand and petit. The grand jury is a body of men, varying from seven to twenty-three in number, chosen by court officials to inquire whether there have been any violations of the law in the community, and to determine whether or not those persons under suspicion should come up for trial. When making an inquiry into a criminal charge, the grand jury sits in secret and hears only the evidence against the accused. Its function is not to try the accused, but to decide whether, on the face of things, there is sufficient evidence of guilt to warrant a trial. When a majority of the grand jury are satisfied that the case ought to be tried, the indictment is indorsed with the words "a true bill," and the case goes to the petit jury to be tried.

This body (in all of the States but one) must consist of twelve men. It sits in open session, and hears evidence on both sides of the case. During the progress of the trial questions of law are determined by the court; the jury determines only questions of fact. After the evidence has all been given, and counsel on both sides of the case have been heard, the jury retires from the court-room and is locked into a small room, where it remains until it finds a verdict, or until the judge decides that no verdict will be reached.

All the twelve¹ members must agree upon the verdict. When no agreement is reached a new trial may be ordered. As a general rule the verdict of a jury is decisive.

Juries are chosen from the ordinary citizens in the neighborhood in which the trial is conducted—from farmers, mechanics, merchants—and this is the feature doubtless that makes trial by jury so popular. When a man is tried by men who are neither too far above him nor too far below him to have sympathy with him, he has a good chance for a fair trial. The jury system, like every other human institution, has its defects; but, notwithstanding its shortcomings, it is one of the greatest safeguards of civil liberty ever invented.

III. *The Supreme Court.*² In this court resides the supreme judicial authority of the State. It sits at the State capital,³ where it holds sessions the greater part of the year. Its jurisdiction is for the most part appellate, although there are a few instances in which it has original jurisdiction. For example, a case involving the official action of a State officer is usually begun in the supreme court. Most of the cases, however, tried in the supreme court come up to it from the courts below. When a decision of this court conflicts in no way with the federal authority, it is final, and is binding upon the people of the State as long as the State constitution remains unchanged; but when the decision conflicts with federal law or with the federal Constitution, it may be reversed by the Supreme Court of the United States.

Immediate Courts of Appeal. In several States where the work of the courts is unusually heavy, there has been inserted between the court of the second grade and the supreme court an intermediate court of appeals.⁴ This ad-

¹ In a few States the agreement of three fourths of the members of a jury is sufficient to render a verdict.

² In four States (Kentucky, Maryland, New Jersey, and New York) this court is called the court of appeals. In Texas there are two supreme courts, one for civil and one for criminal cases.

³ In a few States the supreme court, for the convenience of the public, holds sessions at several different places in the State.

⁴ Pennsylvania, Illinois, Louisiana, and Missouri have courts of this kind.

ditional tribunal has been established to relieve the State supreme court of some of its burdens, just as the federal Circuit of Appeals (p. 135) was established for the purpose of making easier the work of the federal Supreme Court. The jurisdiction of this immediate court is purely appellate, and its decisions are final, except in a few specified cases which may be carried from it up to the higher court.

Probate, County, and Chancery Courts. In many of the States we find in every county a probate court. It is the business of this court to examine the wills of deceased persons and to decide whether they have been made as wills by law ought to be made. When a person dies without having made a will, and leaves no one to take charge of his estate, the probate court will appoint an *administrator* to take charge of it. When a child is left without father or mother, the probate court will appoint a guardian to manage the estate until the child comes of age. In general, the business of the probate court is to see that the property of the dead falls into rightful hands. In some States the probate court is called the orphans' court. In New York and New Jersey it is called the surrogate's court.

In States where there is no separate probate court, probate business is given to the county court, an institution found in many States. This county court in a few States has functions that are purely judicial and may try misdemeanors and small civil cases.

In a few States we find chancery courts separate from the law courts. In these chancery courts the equity cases are tried. As a rule, however, equity cases are tried in the regular law courts of the system.

Relation of the State Judiciary to the Federal Judiciary. The State courts are entirely independent of the federal courts. They have their own judges and court officers—

In New York there is below the court of appeals, the highest court of the State, a supreme court, one division of which is an intermediate court of appeals. The other division of the supreme court does for the most part the work of a court of the second grade, that is to say, of a circuit or district court.

sheriffs, clerks, and prosecuting officers (p. 184)—and their own court-houses. They attend to the judicial business of the State, and can not be compelled to perform judicial duties of a federal nature. Their decisions, however, may be reviewed and reversed by the federal courts. When one of the parties to a case in a State court claims that the decision of the court is contrary to the federal Constitution or to federal law, the case may be carried over to the federal courts for trial; but when a case is wholly outside of federal authority it must receive its final settlement in a State court.

Powers of the State Judiciary. The part played by the State judiciary in our civil life is of the highest importance. Most of the cases that come up for settlement are tried in the State courts. The volume of State judicial business is probably ten times as great as the business of the federal judiciary within the State. Among the powers of the State judge are the following:

(1) He may declare a statute of the legislature invalid on the ground that it conflicts (*a*) with the Constitution of the United States (127), or (*b*) with a statute or treaty of the federal government, or (*c*) with a decision of the Supreme Court of the United States, or (*d*) with the constitution of the State.

(2) When the case before the court is novel, and there is no law, either customary or written, that will fit the case, the judge may nevertheless render a decision; and this decision is not only law for the case in hand, but it will also generally be regarded in other courts of the State as the law for similar cases when they shall arise. Laws thus established by judicial decisions are distinguished from those enacted by the legislature and are called judge-made laws or *case laws*.

(3) Judges in courts of equity—and in most States the regular law courts are also courts of equity—have the power to issue the *writ of injunction*, forbidding a person

to do, or commanding him to do, a certain thing. If the injunction is disobeyed the person disobeying it is liable to punishment. The injunction is generally used to prevent the commission of wrongs that could not be prevented by the ordinary workings of a lawsuit. Thus, if a railroad company begins to lay its tracks across a man's property without first securing a right of way, a judge in a court of equity, at any time of the day or night, will issue an injunction forbidding the railroad to continue the laying of the tracks. In recent cases courts have forbidden labor leaders and others to induce or coerce workmen to strike where the strike would cause irreparable injury and damage to the employers. This use of the injunction has met with fierce opposition and is regarded by many as unwarranted and unjust. The power of injunction is exercised by federal as well as by State judges.

(4) In certain cases State judges may issue the writ of *mandamus*. This writ is issued to an officer of government or to a corporation official, requiring the performance of a public duty that the officer or corporation has refused to perform. The purpose of this important writ is to compel the officer to go forward and do that which his position plainly requires him to do. Federal judges also may in certain cases issue the writ of *mandamus*.

QUESTIONS ON THE TEXT

1. How were judges selected in colonial times? How are they selected at the present time?
2. What is the function of the State judiciary?
3. Give an account of each of the three grades of State courts.
4. What is the function of an intermediate court of appeal?
5. What is a probate court? a chancery court?
6. In what relation does the State judiciary stand to the federal judiciary?
7. Name four important powers of the State judiciary.

SUGGESTIVE QUESTIONS AND EXERCISES

1. Examine the constitution of this State for answers to the following questions: (a) What are the names of the several grades of courts, beginning with the lowest? (b) How do justices of the peace and police magistrates receive their office, by election or by ap-

pointment? (c) What is the name of the court corresponding to the circuit court described in the text? State the qualifications of the judges of this court, the term of their office, the mode of their election or appointment, and the salary received. What is the number of the circuit (or district) in which you live? Bound this circuit and name the judges. (d) What is the name of the court corresponding to the supreme court described in the text? State the qualifications of the judges of this office, the term of the office, mode of election or appointment, and the salary received.

2. Why should the term of office of a judge be longer than that of other officers?

3. Which are the most important, good law-makers, good executive officers, or good judges?

4. If you live in a city of considerable size, describe the several kinds of courts existing in your city.

5. If you had a case in court, would you prefer to have it tried by a judge *without a jury* or by a judge *with a jury*?

6. Fill out the following scheme for the judicial department in your State:

NAME OF COURT	APPOINTED OR ELECTED?	TERM OF OFFICE?	SALARY?	DUTIES (JURISDICTION?)
Supreme Court				
Intermediate Court of Appeals				
Circuit or District or Superior Court				
Justice of the Peace				
Special Courts				

TOPICS FOR SPECIAL WORK

1. Popular Election of the Judiciary: Johnson, 367-369.
2. The State Judiciary: Holcombe, 345-392; Munro, 489-501.
3. Courts of Last Resort: Reinsch, 140-150.
4. Politics and the Judiciary: Reinsch, 158-168.
5. Trial by Jury: Kaye, 320-327.

XXIII

THE COUNTY

Within the boundaries of the State there are hundreds, in some cases thousands, of minor governments attending to the public affairs of localities. Upon these localities—these cities, villages, counties, and townships—rests most of the every-day work of government. Local governments, therefore, may rightly demand a liberal share of our attention. We have already considered this subject in its broad aspects (pp. 62-67), and have learned of the relation that exists between the local government and the higher State government. We shall now study the organization of the several kinds of local government, beginning with the *county*.

Importance of County Government. Of all the local governments, the county is the one most widely established and the one that touches the lives of the greatest number of people. It is a unit of local government in every State. Altogether there are in the United States more than three thousand counties. With the exception of the inhabitants of the cities of Washington, St. Louis, and Baltimore, and the principal cities of Virginia, everybody lives in a county. The total annual expenditures of counties amount to nearly half-a billion dollars. The activities of the county government extend to things affecting profoundly the health, comfort, and convenience of the public. County government, therefore, is one of the most important subjects that can engage the attention of the citizen.

The Three Types of County Government. County government in America had its origin in the colony of Virginia. Very early the settlers of Virginia felt the necessity of some kind of local government, and they chose the English shire, or county, as the form most suitable to prevailing conditions. Counties were also established in the

other colonies; but, inasmuch as conditions were not everywhere the same, county governments of different kinds were evolved, with the result that by the end of the colonial period three rather distinct types were in existence. These types have persisted until the present time. Hence our county governments fall into three classes:

I. *Counties of the Southern Type.* The Virginia county being suitable to the civilization of the other Southern colonies was adopted by them as a unit of local government. Later, when the Territories and States of the Southwest and far West were organized, they were divided into counties of the Virginia type. Looking at the subject broadly, we may say that the following States have modeled their counties on the Virginia plan: Maryland, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, Kentucky, Louisiana, Arkansas, Texas, New Mexico, Arizona, Colorado, California, Oregon, Montana, Idaho, Wyoming, and Utah. In these States virtually all of the services of local government (p. 62) outside of the chartered municipalities are performed by the county government. It is true that in all of these States the county is divided into minor divisions—into precincts, or beats, or wards, or election districts; but these divisions are in no sense distinct units of local government; they are simply convenient areas for voting or for performing some public service regulated and controlled by county authority.

II. *The New England County.* When we turn to New England, we find that the county is not a very important factor in local affairs. This is due to the fact that in New England, outside of the municipalities, the town—as may be learned more fully hereafter—takes to itself nearly the whole of the burden of local government, leaving little for the county to do. In fact, the county in New England exists mainly for judicial purposes. Nevertheless, it has a few officers and exercises a few powers similar to those exercised by the county in other States.

III. *The County in the Middle States and in the Middle West.* In the Middle States and in most of those of the Middle West there have been established within the county inferior local governments known as townships. These townships perform some of the local services that are performed by the county in States that have the Southern type. The functions of county government in the Middle States and in the Middle West, therefore, are not so numerous as they are in the South and Southwest, although they are more numerous than in New England.

The Governing Body of the County. In every county, except in the counties of Rhode Island, there is an elective governing body known as the board of commissioners or board of supervisors.¹ This board consists usually of three or five or seven members, whose terms of office vary from one to six years. In some of the States, as in New York, New Jersey, Michigan, Illinois (in eighty-five of the counties), and Wisconsin, the county board consists of one supervisor for each of the townships into which the county is divided. The county board holds its sessions at the county-seat, where the county officials have offices. The county commissioners (or supervisors) usually do the following things:

- (1) They fix the rate of taxation for the county.
- (2) They appoint the assessors, tax collectors, road supervisors, and other subordinate county officials.
- (3) They make contracts for building and repairing public buildings, such as court-houses, jails, and almshouses.
- (4) They appropriate money for the payment of the salaries of county officers and to meet the expenses of county government.

¹ In Vermont this body is called the board of assistant judges; in New Jersey, the board of chosen freeholders; in Kentucky, the fiscal court; in West Virginia and Tennessee, the county court; in Louisiana, the police jury; in Arkansas, the levying court. In Georgia county affairs are conducted by a single officer known as the *ordinary*.

(5) They (in many States) make contracts for repairing old roads and opening new ones, and also for building and repairing bridges.

(6) They represent the county when it is sued for damages. (Any local government is to a certain extent a corporation (p. 64), and, in so far as it is a corporation, it can, like a natural person, be brought into court to defend a suit.)

Court Officials of a County. Every county is a district for the administration of justice, and at every county-seat sessions of court are held. In the execution of judicial business the judges receive the assistance of several county officers. The most important county officers who act as court officials are as follows:

(1) The *Prosecuting Attorney*, called in some States the *District Attorney*, in others the *State's Attorney*, and in still others the *Solicitor*, is a lawyer whose chief duty is to see that criminals are brought to justice, and to appear in court at the trial of persons charged with crime and present the side of the State.

(2) The *Sheriff* has been called the "arm of the judge." If the judge orders a man to be taken to prison, or orders property to be sold, or sentences a man to be hanged, the sheriff executes the command. It is his duty also to assist in preserving peace and order, and when necessary he may call to his aid a sufficient number of *deputies*. In times of great danger or disturbance he may call to his aid the *posse comitatus*, which includes every able-bodied man in the county. The sheriff usually lives at the county-seat and has charge of the county jail and its prisoners.

(3) The *Clerk of the Circuit* (or *District* or *Superior*) *Court* is a kind of secretary to the judge. He enrolls in permanent form the records of the court and keeps them where they will be safe. Also, in some States, he keeps a record of the deeds and mortgages given in the county, issues marriage certificates, and records all births and

deaths. The county clerk, therefore, is one of the busiest and most useful of county officials.

(4) The *Coroner* inquires into the cause of mysterious or sudden deaths. If he thinks a death has been the result of violence, he summons six or twelve men to act as a jury, and holds a "coroner's inquest." Witnesses are summoned, and the jury, after hearing evidence, states the probable cause of the death. If it seems to the jury that the deceased person came to his death at the hand of a certain person, the accused is arrested and sent to jail to await trial.

Other County Officials. The county officers mentioned in the preceding section are found in virtually every State. In addition to these, there are other county officials that are found in many or most of the States:

(5) The *County Superintendent of Schools* has a general supervision over the schools within the county. He usually sets the examinations for teachers. He visits the different schools of the county and makes out a report of their work; collects school statistics; grades the work of schools; and devotes his time to their improvement.

(6) The *County Treasurer* receives, safeguards, and pays out the money raised by county taxation.

(7) The *County Auditor* examines the books of the treasurer and of other county officers, and reports whether the public accounts are properly and honestly kept. In some States he issues warrants on the treasurer for the expenditure of county money according to the appropriations made by the county board.

(8) The *Register* or *Recorder of Deeds* keeps a record of mortgages and deeds. In all the States, when real estate passes from one owner to another a public record of the transaction is necessary, and in about half the States the record is intrusted to a county register or recorder of deeds.

(9) The *County Surveyor* makes surveys of land when the county needs the services of a land surveyor.

(10) The *County School Board* has the general management of the schools of the county. In some States the county school board has only certain supervisory duties.

(11) The *Overseers of the Poor* attend to the needs of paupers and other unfortunates.

(12) *County Assessors* estimate the value of the property of each taxpayer in the county.

In no State do we find all the county officers mentioned above; yet the list gives a fairly good notion of the official outfit of a typical American county. County officers, generally speaking, are elective; yet there are many cases where the county official receives his position by appointment.

County Home Rule. As a general rule, counties are organized and governed by general laws passed by the legislature. There is, however, in several States a sentiment which demands that counties should be given a measure of home rule similar to that which is enjoyed in many cases by cities (p. 66). In California the people of a county are permitted to determine the form of county organization, provided that certain necessary county officers, such as the sheriff and district attorney, are maintained to execute the laws.

The Citizen and His County. Practically every American citizen is directly and closely interested in the administration of the affairs of some county, but citizens are by no means everywhere as watchful of their county government as they ought to be. They allow the management of county affairs to fall into the hands of a "court-house ring," and this too often means mismanagement and corruption. Where the county government is bad, roads are bad, bridges are unsafe, schools are inefficient, crime is unpunished, and taxes are high.

County affairs are often neglected because they are regarded as too commonplace for serious attention. The

citizen, in his interest in the greater affairs of the State and nation, overlooks the small politics of the locality. Such oversight is one of the most dangerous errors of citizenship. The county is one of the political units that go to make up the State, just as the State is one of the units of which the nation is composed. Keep the government of all the counties pure and good, and good government in State and nation will almost certainly follow.

QUESTIONS ON THE TEXT

1. Why is the question of county government very important?
2. Describe the three types of county government.
3. Give an account of the organization and powers of the county commissioners or supervisors.
4. Name the court officials of the county and describe the duties of each.
5. Name some of the other county officials and give an account of the duties of each.
6. To what extent has "home rule" been granted to counties?
7. What do you think of the principle of "home rule" for counties?
8. What can you say of the citizen and his county?

SUGGESTIVE QUESTIONS AND EXERCISES

1. What are the provisions in the constitution of this State relating to the government of counties? Do these provisions restrict the power of the legislature in reference to counties, or do they leave that body free to govern counties pretty much as it pleases? Can the legislature of this State pass special laws as to counties?
2. How many counties are there in this State? Are their boundaries artificial or natural? Have their names any historical significance?
3. Bound the county in which you live and give its area and population. What is the distance of the county-seat from the most remote point in the county? In what year was this county organized?
4. Prepare a list of the county officers of this State and compare it with the list given in the text. (In those States in which county is the predominant type of local government the two lists will probably resemble each other closely; in other States there may be a considerable difference between them.)
5. State the powers of the county board of commissioners in this State. Is the board a legislative or an executive body?
6. What are the constitutional provisions relating to the term of the several county officials, the manner of their election or appointment, and their salaries?

7. Are the representatives in the legislature of this State apportioned by counties? If so, state the rule by which they are apportioned. Is the rule agreeable to the principle, "so many people, so many representatives"?

8. Is this county well governed? State particulars.

9. Of the functions of local government mentioned on p. 62 name those that are exercised by county officials in this State.

10. What is the name of the smaller political divisions into which counties in this State are divided?

11. In Los Angeles county there is an officer known as the *public defender*, whose duty is to defend in the courts all persons financially unable to employ an attorney and who are charged with crime. Should every county have a public defender as one of its officers?

12. Make out a table showing the titles of your county officers, their names, the length of their terms of office, and whether they are appointed or elected.

Title?	Name?	Length of Term?	Appointed or Elected?	Salary?

TOPICS FOR SPECIAL WORK

1. General Characteristics of County Government: Fairlee, 57-74.
2. The County Bond: Fairlee, 75-94.
3. The Sheriff: Fairlee, 106-112.
4. The County: Beard, 639-648.
5. County Government: Munro, 546-559.

XXIV

THE TOWNSHIP

(For Students in States Having Townships)

We learned in the preceding chapter that in the Middle States and in most of the States of the West the county shares the business of local government with a minor civil division known as the township.¹ States that have townships contain more than half of the entire population of the nation. Students living in one of these States ought to make a careful study of the subject of township government.

The Two Types of the County-Township System. The presence of townships in the county results in a compromise system of local government often called the county-township system. Under this system the county government attends to those affairs that interest the whole body of the people of the county, while the township attends to the affairs of a small area, its function being to provide a government for a neighborhood.

County-township government has had two sources, and has developed into two distinct types—the New York type and the Pennsylvania type. In New York, as in New England, small self-governing communities known as towns (townships) appeared at a very early date in the history of the colony. These towns had their town-meetings and elected a set of officers, but their powers were not so great as those of the New England town. In 1703 the assembly of New York passed a law that has had far-reaching influence upon local government in the United States. This law provided for the annual election by each township of an officer to be known as the *supervisor* of the township,

¹ In Delaware this division is known as the *hundred*.

and further provided that the supervisors of the several townships should meet at the county-seat as a board of county supervisors (p. 183). Here was a reproduction of the old hundred-village system of early England, in which the representatives of the village met in shire moot (p. 18).

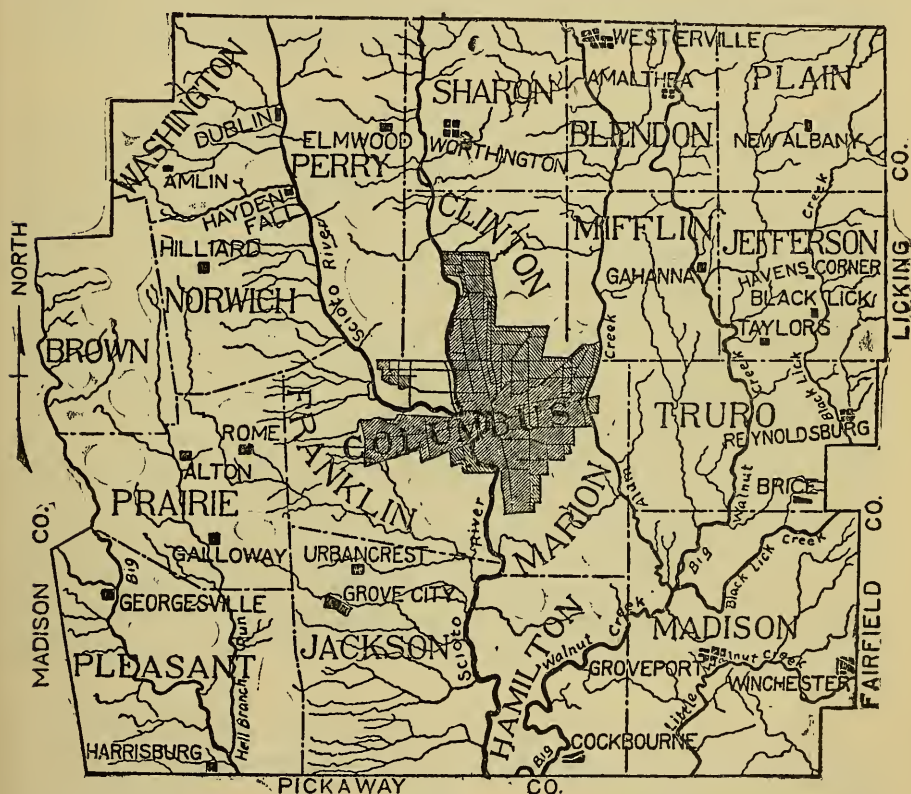
Following this law of 1703, there have been evolved in New York (and in some counties of New Jersey) strongly democratic local governments of small area, classed as townships, and along with these a strong county government, whose chief administrative body—the board of county supervisors—consists of representatives of townships. Villages and the wards of cities are also represented on the board of county supervisors. This type of the county-township system, known as the *supervisor plan*, has served as the pattern for local government in those new States that were settled largely by emigrants from New York. This is true of Michigan, Illinois, and Wisconsin.

In the early days of Pennsylvania the prevailing form of local government was the county organized on the Virginia plan. Gradually the officers of the county came to be elected by the people, and when the township made its appearance the county was too strong to suffer encroachments upon its organization. It retained its board of county commissioners elected by the people of the county. The people of the townships in Pennsylvania did not hold their annual town-meetings and participate directly in the management of their local affairs, as in New York; they elected their local officers annually, and with the act of election their power was at an end. In other words, the township in Pennsylvania was a representative government.

The county-township system of Pennsylvania naturally spread to Ohio, and thence to Indiana. Later it was adopted by Iowa, Kansas, Missouri, Nebraska, North Dakota, South Dakota, Minnesota and Oklahoma.

Local government in Illinois has had an instructive experience. When this State was admitted into the Union

its people were largely of Southern origin, and consequently local government of the pure county type was established. As time went on, the northern part of the State filled up with people from the North. These desired the county-township plan, and in 1848 the new constitution gave the people of the county the right to determine whether they



MAP OF A COUNTY, SHOWING TOWNSHIPS AND VILLAGES

wished townships or not. Taking advantage of this right, more than five sixths of the counties of Illinois have decided for townships and are now under the county-township system.

Michigan furnishes another excellent illustration of how the character and habits of the people influence the form of government. In Michigan, at first, the county-township

system of the Pennsylvania kind was established; but as emigrants from New York and New England moved into the State and changed the character of the population, the people became more and more dissatisfied with their local government, and finally changed it to the supervisor or New York plan. Such experiences teach that local government must above all things be acceptable to the people who are immediately affected by it and who must personally conduct it.

Powers of the Township. Why have so many States found it desirable to erect within the county another fully organized government? Because the township has been found to be an institution of great convenience. For a sparsely settled society the county is, perhaps, the only practicable form of government; but as population increases the needs of the neighborhood multiply, and many of these needs are such as can be attended to by the people directly interested if they have the power granted to them. It is not necessary to travel twenty miles to the county-seat to see an officer about the repair of a washout in a road, or about the purchase of a stove for a school-house, when we can have a government near at hand to attend to such things. The township has been introduced as an agency by which the needs of the immediate locality may be attended to.

Especially has the public *school* been a factor in the development of the township system. Local government in the South developed around a court-house; in New England, around a church; in the Middle States and in the West, around a school-house. Then, too, the care of the *roads* and the support of the *poor* are services that in many cases may most conveniently be rendered by the government of the neighborhood.

The powers of the township vary slightly in the different States; but, as a rule, where the county-township system prevails the township (1) supports the public schools,

(2) cares for the roads, and (3) helps the poor, leaving other matters of local government to the county. The taxes necessary for doing these things are usually levied and collected by township authority.

Organization of the Township. The names of the officers of the township are not the same in all the States, but its organization is practically the same and may be indicated as follows:

(1) The *Supervisors* (sometimes called *Trustees*) resemble the selectmen of the New England town, only their powers are not so great. Their duty is to take care of the roads and bridges, erect and keep in repair guide-posts and watering-troughs, and plant shade-trees along the roadside. They may build and keep in repair a town-house, in which elections may be held and officers of the town may transact the public business.

(2) *School Directors* or *School Trustees* have control of the public schools within the township. In some States the directors of all the townships in a county meet every second or third year and elect a superintendent of schools for the county; in other States the township supervisors or trustees are also the school directors.

(3) The *Township Clerk* keeps the records and accounts of the township.

(4) *Assessors*.

(5) *Tax Collector*.

(6) *Auditors*. These officers examine the accounts of the township to see that all money has been properly and honestly expended.

(7) *Justice of the Peace*.

(8) *Constable*.

(9) *Overseers of the Poor*.

(10) *Election Officers*.

The Township a School for Good Citizenship. When we consider that in some of the States there are as many as

fifteen hundred townships, officered perhaps by fifteen thousand citizens, we see how great is the influence of the little local governments upon the civic life of the State. Like the New England town, the township is the training-school where citizens learn the principles of civil liberty and the art of self-government. Thus, while it might be possible to dispense with the township, to do so would be to incur a heavy political loss. There is no likelihood, however, that this valuable institution will decay. As the rural population in a State becomes denser the necessity of a government of smaller area than the county will always be keenly felt, and sooner or later such a government will be established. Among the various types that may be selected the township bids fair to remain the favorite. A high authority says: "The Western method of local government (the county-township system) for simplicity, symmetry, flexibility, and administrative efficiency is superior to any other system which the Teuton mind has yet produced." (*Howard*.)

QUESTIONS ON THE TEXT

1. What is meant by the county-township system?
2. Name the two types of the county-township system and describe each.
3. Name the States that have the New York type of the county-township system; the States that have the Pennsylvania type.
4. Give an account of the development of local government in Illinois; in Michigan.
5. What are the usual functions of the township?
6. Name the typical township officers and state the duties of each.
7. Describe the effect that township government has upon civic life.

SUGGESTIVE QUESTIONS AND EXERCISES

(*For Students where the County-Townships System prevails*)

1. What is said in the constitution of this State concerning the organization and powers of townships?
2. Name the officers of this township. What are the duties of each of these officers? For what length of term does each one serve?
3. Do townships of this State belong to the Pennsylvania or to the New York type?
4. What functions does the township in this State perform? Would it be wise to give it more power? Why?

5. How many townships are there in this county? Name them. Bound the one in which you live.

6. Are there any villages or towns within this township? If any, how are they governed?

7. Compare the merits of the supervisor plan with those of the commissioner plan.

8. Are the people of this township proud of the manner in which local affairs are conducted? If so, why? If not, why not?

9. Compute the number of township officers in this county. Estimate the number of such offices in the entire State. Describe the effect that would be produced upon the citizenship of the State if the township government were abolished.

10. Is a love of locality inconsistent with love of country?

11. Make out a table showing the titles of your township officers, the length of their terms of office, whether they are appointed or elected, and the salary or compensation they receive:

Title?	Name?	Length of Term?	Appointed or Elected?	Salary or Compensation?

TOPICS FOR SPECIAL WORK

1. Townships in the Central States: Fairlee, 164-185.
2. Township Government: Beard, 651-653.

XXV

THE TOWN

(For Students in New England)

We have learned (p. 182) that, in New England, outside of the municipalities the town performs most of the services of local government. Since this is so, it is highly important that New England students should learn the essential facts of town government.

Origin and Character of the Early New England Town.

At the time when the planters of Virginia were organizing newly settled communities into counties, the colonists of New England were developing a system of local government that differed widely in form and spirit from the Southern type. The English shire, which served for the model for the Virginia county, did not suit the conditions of the earliest Puritan settlements. The tillable land of the New England country was divided by nature into small areas marked off by bold hills and troublesome streams; the settlements were constantly harassed by Indians; the settlers themselves were bound together by personal as well as social and religious experiences. These circumstances led the Puritans to build their houses as close together as possible, and to settle in compact villages rather than to spread out on large plantations.

The form of government adopted for these thickly settled communities was one that had almost perished from the earth. The old town- (*tun*) or village-meeting (p. 18), which the Anglo-Saxons had brought with them to England a thousand years before, and which had been so changed by the influences of feudalism that it was no longer recognizable, was revived, unconsciously perhaps, in its ancient

form and vigor, and the town instead of the county was established.

The early New England town was a pure democracy, in which all the male adult inhabitants who attended church—and everybody was required by law to attend church—participated in the management of public affairs. The town, therefore, was a strong contrast to the Virginia county, which was for a long time a close corporation,¹ and was practically an aristocracy of large land-holders.

The deep religious nature of the Puritans affected their civil institutions, and for a long time their religion and politics were completely blended. Political life in Virginia centered around the county court-house; in New England it centered around the church or meeting-house, which was situated in the center of the town. A glance at the proceedings of one of the early town-meetings will illustrate how intimately civil and religious matters were mingled. Thus the people of Dorchester, Massachusetts, in town-meeting assembled, in 1666 voted that the "men's seats in the body of the meeting-house be enlarged to the women's seats, and that the space between Judge Jamison's heirs and Lieut. Stearn's pew be divided and added to their pews, they consenting, and that the doors to their pews be made to come out into the hind alley, and that men and women be placed in each of these pews by the committee for seating the meeting-house." In these days this would seem to be strange business for government to be engaged in, but we must remember that church and state were as yet united in all parts of the world, although Rhode Island, under the leadership of Roger Williams, was making efforts about this time to separate them.

The town was chosen as an agency for local government throughout New England, and under its stimulating and healthful influence there was developed a citizenship that has received the admiration of the world. The re-

¹ A close corporation is one in which vacancies are filled by the votes of the members of the corporation.

ligious features of the town organization and control have disappeared; church membership is no longer a qualification for voting; citizens are no longer compelled to attend divine worship; the church and the minister are no longer supported by the public money. Excepting the fact that it is no longer concerned with matters of religion, the New England town of to-day remains in outward form, at least, what it was in the early days.

The Town-Meeting. The central fact of local government in New England is the town-meeting, the old village moot or *tungemot* of the Saxons. Once a year the qualified voters of the town meet together to discuss measures relating to town affairs and to take action thereon. The meeting is no longer held in church, but in the town house or town hall. When the people have assembled, the town clerk calls them to order, and states the purpose for which the meeting is called. A *moderator* is then chosen to preside over the meeting, and business proceeds according to parliamentary rules.

In a town-meeting we see democracy in its purest form. Instead of sending men to conduct affairs for them, as in a representative government, the people are there in person. Young and old, rich and poor, take part in the proceedings, and any citizen present may exert the full force of his character and influence. Every measure that is brought before the meeting is discussed and criticized. Those in favor of the measure state their argument for it; those opposed to it state their objections. When the discussion is at an end a vote is taken, and, whatever the results may be, all present feel that the will of the people has been expressed. Thus the town-meeting settles all matters relating to the public affairs of the town. The most important things done are these:

- (1) The *rate of taxation* is fixed. Money is appropriated for the schools, for the care of the roads, for the support

of the poor, for the salaries of officers, and for other necessary expenses.

(2) *By-laws* are passed for the regulation of local matters. The word *by* originally meant *town*; hence a by-law is a town law. A law passed in town-meeting forbidding the use of the sidewalks of the town for bicycling is an example of a by-law.

(3) Town *officers* are elected. It would be impossible for all the people of a town to meet together every day for the transaction of public business. For this reason, at the annual town-meeting officers are elected to manage the affairs of the town in the name of the people for one year.

Town Officers:

(1) *Selectmen*. The general management of town affairs during the year is placed in the hands of three or five or seven or nine citizens, called selectmen. These officers carry into effect the measures passed at the town-meeting. They supervise the laying out of roads; they grant licenses; they care for the poor; they take measures to abate nuisances, check the advance of contagious disease, and otherwise preserve the health of the town; they listen to complaints against the management of town affairs; they represent the town in court when it is sued; they make out the warrant when a special town-meeting is to be called. The town-meeting is the legislature of the town, and the selectmen are its chief executive officers.

(2) The *Town Clerk*. This officer has numerous duties. We have seen that it is he who calls the town-meeting to order. He must always be present at a town-meeting and keep a record of the proceedings. In addition to this, he keeps a record of the births, marriages, and deaths in the town, and grants certificates to those wishing to marry. In fact, most matters of town record are in his keeping, including sometimes the recording of deeds and conveyances.

(3) *Tax Assessors.*

(4) *Tax Collectors.*

(5) *The Town Treasurer.*

(6) *Overseers of the Poor.* These officers have charge of the town alms-house and give relief to the deserving poor.

(7) *The School Committee or Board of Education.* (School affairs are usually attended to by a committee or board elected at a separate school election.)

(8) *Constables.* These are peace officers, and every town has one or more of them. They arrest for crime, and assist the selectmen in executing the law.

(9) *Surveyors of Highways.* These officers inspect roads and bridges and are responsible for keeping them in repair.

(10) *Fence Viewers.* These officers settle disputes that may arise between neighbors about partition fences or walls.

(11) *Field Drivers.* When cows or horses or other animals are found wandering about the town, the field driver puts them into a pound and keeps them until their rightful owner is found.

This list of officers is not complete; yet it is long enough to show that a great many people take part in the government of a town. It is quite possible that there are New England towns in which there is not one intelligent citizen of advanced years who has not at some time in his life held public office. It is this general participation in the business of government that makes the people of New England such a wide-awake and progressive body of citizens.

The Town as a Factor in the Civic Life of New England.

It is difficult for one not residing in New England to understand how powerfully its system of local government influences its civic life. Every voter of a town is a law-maker, and almost every one either has been, is, or very reasonably expects to be a town officer of some kind. This direct contact with government keeps public spirit

keyed up to a high pitch. If the town affairs during the year are managed unwisely or corruptly, there is sure to be a speedy exposure in town-meeting by merciless critics. If improvements are needed, or if the town lags behind its neighbors in progressiveness, the discussions in the folkmoot are sure to be directed toward a remedy, and when a remedy is found it usually proves to be wise and effective. The keen, vigilant citizenship fostered by these little New England democracies awakened the admiration of Thomas Jefferson and led him to pronounce them to be the "wisest invention ever devised by the wit of men for the perfect exercise of self-government and for its preservation."

Town Government Outside of New England. In those Western States that were settled largely by emigrants from New England, local government is modeled to some degree on the plan of the New England town. This is especially true of Michigan, Illinois, Wisconsin, Minnesota, North Dakota, South Dakota, and Nebraska. In Michigan the voters of the townships, after electing the local officers, assemble in town-meeting, and, after voting the taxes for township purposes, make regulations concerning such matters as the licensing of dogs, the vaccination of children, and the purchase of books for the library. In certain parts of Illinois, also, the voters hold a town-meeting after the election of officers has been held.

The town-meetings of the Western States may resemble the New England town-meeting in form, but they lack the spirit of the original type. It is doubtful whether an institution like the New England town can be successfully transplanted. Certainly the efforts that have been made to establish local governments in the West after the New England pattern have not been attended with marked success. Local government in the West has been strongly influenced by New England ideas, but town government in its pure form has never flourished outside of New England.

QUESTIONS ON THE TEXT

1. What circumstances led the Puritan settlers to choose a form of local government different from that chosen by the Virginians?
2. Describe the early New England town.
3. Illustrate how the affairs of church and state were blended in the early days of New England history.
4. Describe a New England town-meeting.
5. What are the powers of a New England town?
6. Name the officers of the New England town and state their duties.
7. What influence does town government have upon civic life in New England?
8. To what extent has town government of the New England type been adopted in other States?

SUGGESTIVE QUESTIONS AND EXERCISES

(For Students in New England)

1. Examine the constitution of your State for provisions respecting the government of towns and state these provisions.
2. Of the services of local government mentioned on page 62, which are performed by your town government?
3. Bound the town in which you live and tell when it was organized. Name all the towns in the county in which you live. Have these names historical interest? Name the boroughs or cities, if any, located within the borders of your town.
4. Make out a list of the officers of your town. Which one of these plays a most important part in town government? (Elect a committee to wait upon some town officer and invite him to give the class a talk upon town government.)
5. How may a special town-meeting be called?
6. What influences are at work to make town government a less important feature of New England life than it has been in the past?
7. How many representatives has your town in the legislature? Has this apportionment been made according to the population of the town?
8. Is the town-meeting a legislative or an executive body?
9. Are women and children represented in town government?
10. In what matters does the government of your town excel? In what respect is your town excelled by its neighbors?
11. How many towns are there in this State? What is the population of the largest town? of the smallest town? Is the largest too large for a pure democracy? Is the smallest too small for self-government?

TOPICS FOR SPECIAL WORK

1. New England Towns: Fairlee, 141-146; Beard, 649-651.
2. The Town Meeting: Fairlee, 147-163; Munro, 562-563.
3. The Character of Town Government in New England: Munro, 563-567.

XXVI

MUNICIPALITIES

Thus far we have described those forms of local government that are most efficient when ministering to the needs of rural or sparsely settled communities. But more than half of our people dwell in thickly settled communities, in villages and towns¹ and cities, which are organized as municipalities (p. 64). In this chapter we shall learn of the different kinds of municipalities and of the different forms of municipal organization.

Necessity for Municipal Organization. It is plain that a large number of people living closely together, say a thousand persons upon a square mile of territory, have special needs and, therefore, should have a government with special powers. Such a densely settled community needs street lights, side-walks, sewers, water-works, fire engines, and the government of the township or county or town within which it is located can not furnish these things conveniently. It also needs special officers of government clothed with special powers. As long as it is governed precisely as the thinly settled region around it, it will suffer. Its taxes will be greater than the benefits that it receives in return; its citizens will often act without regard to the public welfare or comfort; its sidewalks will be unpaved, its streets will be unlighted; in it offenses against the health and the peace and the good order of the community will be committed, and there will be neither law nor officers to hinder. The State, as we have seen, comes to the relief of such a community and confers upon it the privilege of a municipal corporation.

¹ The word *town* is frequently used to denote simply a collection of houses, and in this sense it is used here. The New England town is sometimes a purely agricultural area without so much as a considerable cluster of houses within its borders.

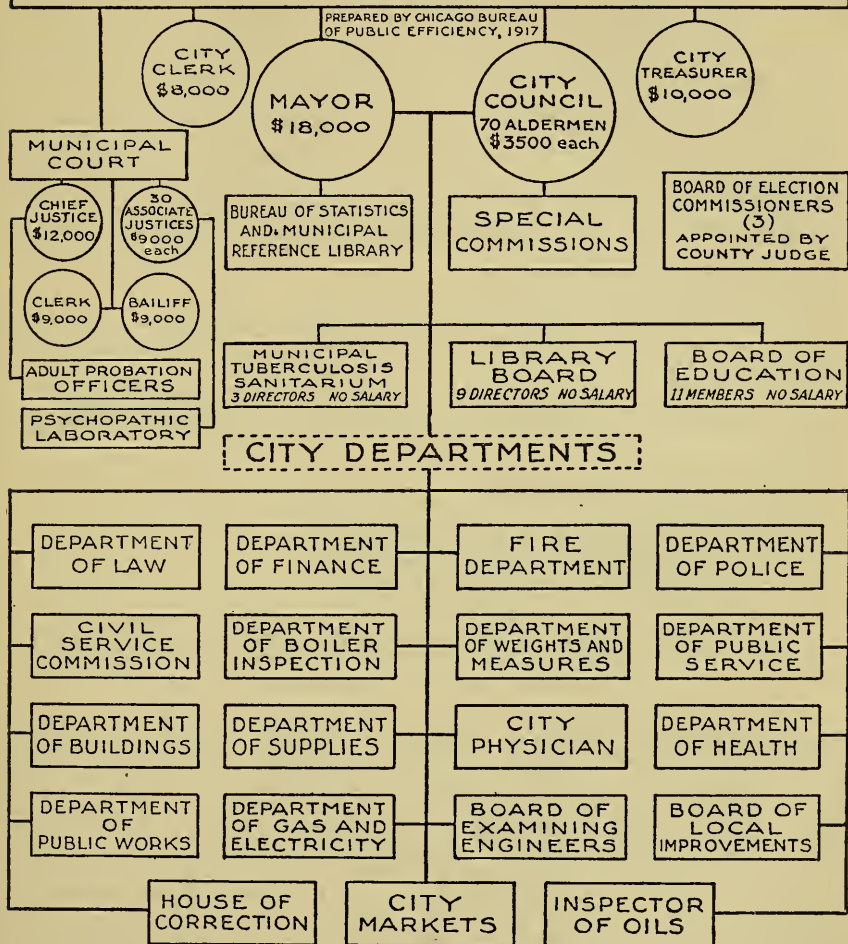
Two Classes of Municipalities. Municipal corporations, for convenience of treatment, may be divided into two classes. In the first class may be included all those chartered communities that have a simple form of organization, limited local powers, and a small population, although population of itself is an untrustworthy guide for their classification. Such communities bear different names in different parts of the country, being called boroughs in some States, and towns or villages in others.

The second class of municipalities is the *cities*. A city is almost always an enlarged town or village, and in outward appearance it is sometimes difficult to distinguish a small city from a large town, although between the governments of the two there is a sharp difference. The government of the city is more complex than that of the town; its powers are greater, its officers are more numerous, and its local independence is more clearly defined. At what point in its growth a town or village shall cast off its simple organization and assume the dignity of cityhood depends upon State law. In some States a place must have ten thousand or more inhabitants before it is entitled to the privileges of a city, while in other States we find cities with fewer than three thousand inhabitants.

Villages, Boroughs, Towns. It is customary to give a community a municipal charter whenever its population becomes large enough and dense enough to justify a separate organization. In some States, when a district of less than a square mile in extent comes to have as many as three hundred inhabitants, it is entitled under a general law to a village or town charter, and this it usually obtains from a judge of a court or from some other designated officer. In a few States, however, there are no general laws in reference to municipal corporations, and in these the legislature grants special charters giving to each municipality such a charter as it (the legislature) thinks it ought to have.

VOTERS OF THE CITY

PREPARED BY CHICAGO BUREAU
OF PUBLIC EFFICIENCY, 1917



— KEY —
 ○ ELECTIVE OFFICIALS □ DEPARTMENTS OR APPOINTIVE OFFICIALS

COUNCIL PLAN CHICAGO, ILLINOIS

The organization and powers of a village (or town or borough) do not differ widely in the different States. Most of the officers are elected by the voters of the village. The governing body consists of a president or mayor or chief burgess and a body of three or more trustees or burgesses or commissioners. In addition to these, there is always a clerk, and frequently a treasurer, a tax collector, a constable, a justice of the peace, and a board of street commissioners. The village government usually renders the following services:

- (1) It keeps the peace.
- (2) It holds a court for the trial of minor civil and criminal cases.
- (3) It keeps the streets in order and provides good sidewalks.
- (4) It lights the streets.
- (5) It furnishes a supply of water.
- (6) It supports the public schools.
- (7) It cares for the public health.
- (8) It purchases apparatus for the extinguishing of fires.

Organization of Cities. Since cities are organized under State authority, as we pass from State to State we find great differences in municipal organization. And in the same State there are great differences, for sometimes in the same State it is impossible to find two cities organized precisely alike. Still, there are in the United States three well defined types of city government: (1) the council system; (2) the commission system; (3) the city manager system.

I. *The Council System.* This is the system that is in operation in the greatest number of American cities, and that conforms most nearly to the American doctrine of the separation of powers (p. 24). Under the council system, power is divided and given to a city council and a mayor, the council exercising the legislative power and the mayor

exercising the executive power. The council is always a representative body, its members being in most cases elected from municipal divisions known as *wards*. In nearly every city the council is a unicameral body. The term of office of a member of the council is sometimes as short as one year; very often it is two years; it is never longer than four years.

The council regulates and controls the almost innumerable activities of the city government. It provides for police protection, for the extinguishing of fires, for the lighting, cleaning, and paving of streets, for the construction of sewerage and removal of garbage, for the preservation of public health, for the support of schools. As the municipal legislature it levies the taxes necessary to meet the expenses of the city. A perusal of the proceedings of a city council, as reported in the daily newspapers, will show how profoundly its laws, called *ordinances*, affect the health, safety, peace, comfort, prosperity, intelligence, and morality of the city.

In cities where the council system prevails the executive power is vested in a mayor, who is elected by the voters for a term varying from one to four years. The powers and duties of the mayor within the city are comparable to those of the governor within the State. The chief duty of the mayor is to carry into effect the laws and ordinances affecting the municipality. Associated with the mayor in the executive branch of a large city, there are numerous heads of departments and boards. Some of these are elected by the people, others are appointed by the mayor; in a few States some of them (for example, the police and health commissioners) are appointed by the governor or by the State legislature. Serving under these chiefs and boards are assistants and employees, the number of whom increases with the size of the city, and sometimes consists of many thousands. A large, well organized city will usually have such departments and boards as are indicated by the following outline:

(1) *Department of Finance*: comptroller, board of estimates, collector of taxes.

(2) *Department of Law*: city solicitor, or attorney.

(3) *Department of Public Safety*: board of fire commissioners, commissioner of health, inspector of buildings, commissioner of streets.

(4) *Department of Public Improvement*: city engineer, water board, inspector of boilers.

(5) *Department of Parks and Squares*: board of park commissioners.

(6) *Department of Education*: board of school commissioners; superintendent of schools.

(7) *Department of Charities and Correction*: trustees of the poor, supervisors of city charities.

(8) *Department of Taxes and Assessments*.

(9) *Board of Police Commissioners*.

(10) *Miscellaneous*: city librarian, superintendent of lamps and lighting, surveyor, constables, superintendent of public buildings, public printer.

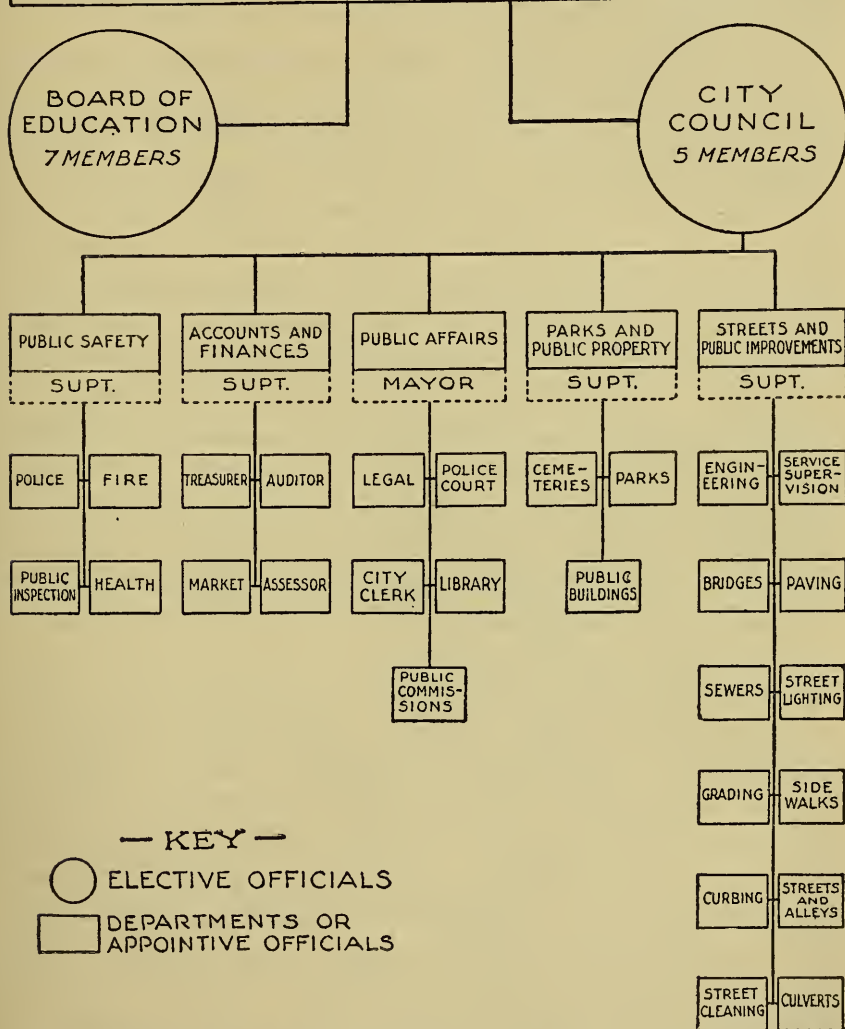
In every large city there is a system of courts, extending from the police or magistrate or municipal court up to the higher courts; but the judges of these courts, although they may be elected by the people of the city, are not strictly officers of the municipal government. Justice being administered in the name of the State, the judicial department of a city is merely a portion of the State judiciary acting within the borders of the city.

II. *The Commission System*. At the opening of the twentieth century American communities developed at a very rapid rate and their government gave rise to serious and perplexing problems. In fact, there was so much mismanagement and corruption at this time that municipal government was becoming a national shame and disgrace. So there was a widespread movement for reform.

One of the most popular of the municipal reforms consisted in doing away with the historic council system just described, and establishing in its place the commission

VOTERS OF THE CITY

INITIATIVE REFERENDUM RECALL



COMMISSION PLAN *DES MOINES, IOWA*

system. The commission form was organized in Galveston after the great inundation of 1900. Des Moines followed Galveston in adopting the commission plan, and other cities followed in rapid succession.

Where the commission system is in operation, municipal power, both legislative and executive, is vested in a single body, usually known as a commission, although this body is sometimes called the city council. Under the commission system the governing body usually consists of five commissioners (or councilmen) elected by the voters of the city at large, there being no ward lines recognized in the selection or in the election of this commission. Party lines as well as ward lines are disregarded in the election of the commission, for candidates are nominated without the aid of party machinery and the election is conducted without regard to partizan results. One member of the commission is the mayor, who presides at the meetings of the commission (council), but who has no power to veto any measure. The commission passes the ordinances for the government and administration of the city, and also carries the ordinances into effect.

The executive and administrative authority and duties are distributed among several departments. These departments are usually five in number and are known as (1) the department of public affairs, (2) the department of accounts and finances, (3) the department of public safety, (4) the department of streets and public improvements, and (5) the department of parks and public property. At the head of each of these departments is placed one of the members of the commission, who is the superintendent of his department and who is responsible for its workings. The mayor, by virtue of his office, is the superintendent of the department of public affairs. The superintendents of the other four departments are designated by a majority vote of the commission itself. City officers, such as the city clerk, the solicitor, the assessor, the treasurer, and the like, are usually appointed by the com-

mission, although in some cases these officers are elected.

Thus it is seen that under the commission plan very great power is lodged in a small body of men. But the commission (council) is not likely often to abuse its power, for wherever the commission system has been installed the people have usually reserved for themselves the powers residing in the initiative and referendum and in the recall (p. 158). Where these devices are in operation the commission is held directly responsible and accountable to the electorate.

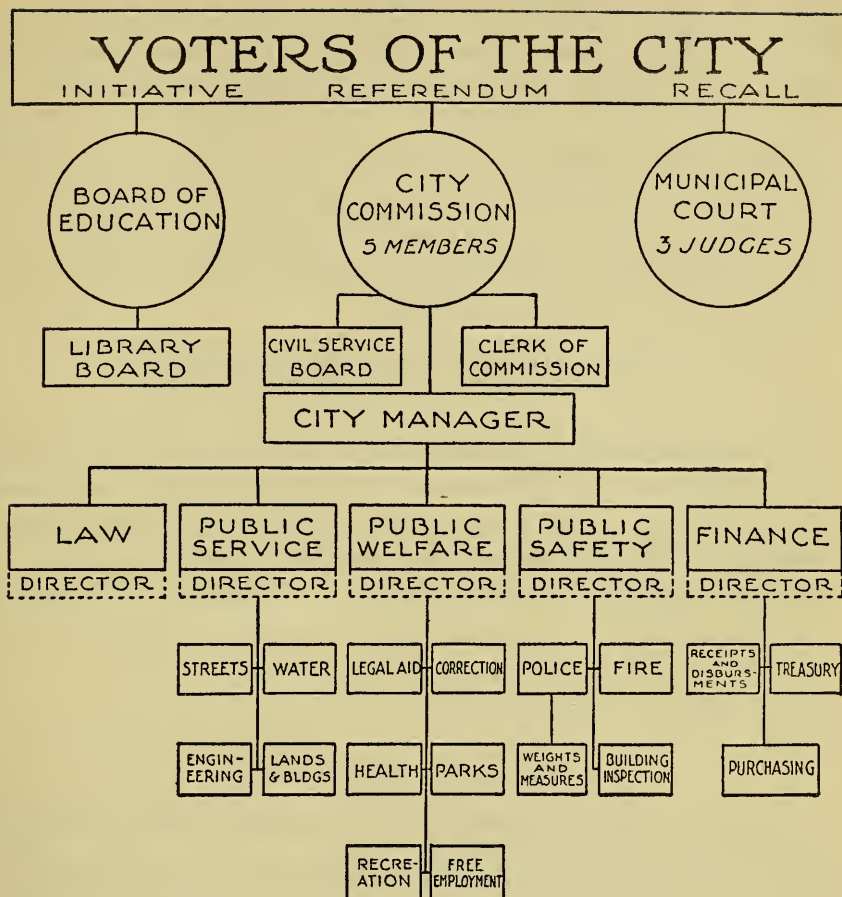
Thus it is seen that the essential characteristics of the commission are these: (1) It concentrates authority by giving power to a small body of officials; (2) it provides for the election of the commissioners by the city at large instead of by wards, thus giving every citizen a chance to vote for the most desirable candidates, regardless of the section of the city in which they reside; (3) it tends to do away with partizanship in the choice of commissioners; (4) it places each commissioner in charge of a definite department and makes him responsible to the people for its management; (5) it gives the people an opportunity to bring into use the initiative and referendum and the recall.

The commission system seems to have justified itself by its fruits. It has recommended itself to the people in all parts of the country, and the cities that have adopted it have, as a rule, found it much more satisfactory than the old council system. In 1920 more than four hundred cities were governed under the commission. Among these were Buffalo, Newark, St. Paul, Portland (Oregon), Duluth, Spokane, Tacoma, Omaha, Oakland, Kansas City (Kansas), Louisville, Lincoln, Jersey City, Trenton, Memphis, Houston, Birmingham, Nashville, Dallas, Sioux City, Springfield (Ill.), Superior, New Orleans, Passaic, Paterson, Pueblo, Fort Worth, Harrisburg, Hartford, Knoxville, Lowell, Lawrence (Massachusetts), Sacramento, Erie, Denver, and Salt Lake City.

III. *The City Manager System.* This is a modifica-

tion, or rather an advanced form, of the commission system. It has for its aim a greater concentration of the executive authority than that provided by the commission plan. Where the city manager plan has been adopted, the entire administration of the affairs of the city is intrusted to a single executive officer—the city manager—appointed by an elective commission (or council). The power of the city manager extends to the appointment and dismissal of most, if not all, of the city officers and to all of the employees in all of the departments. Under the manager plan the commission is a purely legislative body; the commission enacts the ordinances, and the manager enforces them. The most important requirement of the system is that the manager must be an expert in municipal affairs. He is secured from any place in which he may be found, and is employed solely because of his efficiency as a city executive.

The manager plan was first put into operation in 1912 in the little city of Sumter, South Carolina. The next year, after the great flood in the Miami Valley, the city of Dayton, taking advantage of the “home rule” feature of the Ohio constitution (p. 66), framed for itself a charter providing for a city manager. When it came to appoint the manager, it selected a man from another part of the country, paying him a handsome salary. City after city followed the example of Dayton, and by 1920 more than one hundred and seventy municipalities had adopted the city manager plan. Among these were Akron, Ashtabula, Sandusky, Springfield, and Xenia, in Ohio; Grand Rapids, Jackson, Muskegon, Kalamazoo, Alpena, Cadillac and Manistee in Michigan; San Jose, San Diego, Bakersfield, Santa Barbara and Alameda in California; Wichita and El Dorado in Kansas; Wheeling and Charleston in West Virginia; Auburn, Watertown and Niagara Falls City, in New York; Lynchburg, Norfolk and Roanoke, in Virginia; Dubuque, Clarinda and Webster City, in Iowa; Boulder and Durango, in Colorado; and Altoona, in Pennsylvania.



— KEY —



ELECTIVE OFFICIALS



DEPARTMENTS OR
APPOINTEE OFFICIALS

CITY MANAGER PLAN

DAYTON, OHIO

Honesty and Vigilance the Price of Good City Government. While many good things have come out of the commission system, it would be a mistake to suppose that recent progress in municipal affairs is due wholly to new types of organization. For many cities working under the old council system have joined in the movement for reform, and have achieved results fully as satisfactory as those organized under the commission plan, thus giving force to Pope's famous couplet:

For forms of government let fools contest;
That which is better administered is best.

Forms are highly important, for there are good forms and bad forms; but form alone is not enough. If municipal affairs are to be well managed, there must be absolute honesty in the doings of city officials, and there must be untiring vigilance upon the part of citizens. No governmental machine, however wisely constructed, will do its work well if dishonest men are operating it or if it is left to run itself.

QUESTIONS ON THE TEXT

1. Under what circumstances does government under a municipal incorporation become necessary?
2. Into what two classes may municipal incorporations be divided?
3. Describe the organization of the village and borough.
4. Give an account of the council system.
5. Give an account of the commission system.
6. Give an account of the city manager plan.
7. Name two indispensable conditions of good municipal government.

SUGGESTIVE QUESTIONS AND EXERCISES

(For Students Living in Smaller Municipalities)

I

1. Secure, if possible, a copy of your municipal charter and learn the boundaries, the titles of the officers, and the powers of your municipality.
2. Secure the names of the officers who are now serving in the offices in your town. Which of these are serving without pay?

3. What can you say of the condition of the streets of your town? of the efficiency of your fire department? of the efficiency of your police department? of the success of your school system?

4. Look around you and discover something that you as pupils may do to improve your town. (Let each student mention *one* thing.)

5. You have discovered a few things that you as students may do for the betterment of town affairs. Now organize as a civic club and set about doing these things.

6. Would you vote for a town officer regardless of the political party to which he belongs? Give reasons for your answer.

7. Name all of the chartered municipalities situated in the county in which you live.

8. To what extent is your town under county government?

9. Is your city governed under the commission form? If so, name the members of the commission, state their terms of office, their salaries, their duties. If there is a city manager, give an account of his powers. If this city is not under the commission form, would it be advisable for it to adopt this form? Give reasons for or against making the change.

10. Which is of more consequence to the citizen in his every-day life, the action of the State legislature or the action of the city council (or commission)? (Do not answer this question hastily.)

II

(For Students Living in Cities)

1. Compare the organization of your city with the one outlined in the text. As your city increases in population what changes will have to be made in its government?

2. What is the length of the mayor's term of office? What is his salary? What officers and boards does he appoint?

3. Describe the organization of your city council. What is the method of representation in this council? Do you know the name of the person who represents your ward in the council? Bound the ward in which you live.

4. (See exercise 4 above, substituting "city" for "town.")

5. (See suggestion 5 above.)

6. A citizen of a city said: "I always vote at State and national elections, but I never vote at municipal elections." In what particular was this citizen neglecting his personal interest? What special qualities of citizenship are necessary in a city?

7. Make out a list of the services performed within the boundaries of your city by the national, State, and municipal governments respectively.

8. Name a few of the influences that make for bad city government. Can any of these be overcome?

9. What agencies are now at work in your city for the improvement of its government?

TOPICS FOR SPECIAL WORK

1. Merits and Limitations of Commission Government: Bruère, 69-92.
2. The City Council: Goodnow and Bates, 179-229.
3. Municipal Administration: Zueblin, 376-394.
4. The Commission Government Movement: Bruère, 40-68.
5. The City, the Battle Ground of Democracy: Kaye, 503-506.
6. The City Manager Plan: Munro, 631-632.

XXVII

PARTY ORGANIZATION

In an earlier chapter, when considering the subject of party government in its broad characteristics, we learned that government in the United States, whether State or national, is conducted through the agency of political parties (p. 69). Since this is so, it is proper that the subject of party organization should receive careful attention.

Nomination of Candidates. One of the most important of the services performed by a political party is to nominate candidates for office. A person may announce himself as a candidate and secure votes for himself without being named as the candidate of a party, but it seldom happens that any one is elected to an important office in this way. Before one can hope for success at the polls one must first receive the indorsement of a political party. A nomination by a party is an announcement to voters from a responsible source that the candidate named possesses personal fitness for the office to which he aspires, and that his political views agree with the doctrines professed by the party. In a great democracy intelligent voting is almost impossible unless candidates are agreed upon before election day.

Permanent Party Organization. The work of a political party does not end on election night when the ballots have been counted. The life of a party must be supported from one election to the next; and this is done by means of a *permanent organization*, which is maintained throughout the length and breadth of the land. In almost every township, village, election district, and city ward, each of the great parties has its permanent local committee of manage-

ment. Likewise it has its permanent county, city, and State committees. Above all these it has a permanent *National Committee*, consisting of one member from each of the States and Territories.

These permanent committees do the heavy work of politics. Indeed, they do *all* the work of politics except voting. They issue calls for the nominating conventions to be described below; they organize political clubs; they arrange for political mass meetings and processions; they solicit funds for conducting campaigns; they urge voters to be registered, and then urge them to come to the polls; in many other ways they promote and defend the interests of the party, through good and ill report, after defeat as well as after success.

The members of these party committees are generally experienced politicians, and they know how to organize and control men. They are skilled in determining what the rank and file of the party desire, and they are quick to respond to the commands of public opinion. Their services are generally performed without compensation. In many instances, however, in the event of party success, they expect to hold office themselves, or to assist their friends to office, or to profit personally in some other way.

Primaries. The chief task of the permanent committees is to superintend the nominating machinery and keep it well oiled. This machinery is set in motion at the primaries. These are meetings or elections where the voters of the party may express in a direct manner their wishes in respect to party management. Primaries can be controlled by the voters of the party, and if they are controlled by the party managers—as too often they are—it is the fault of the voters themselves.

For many years the primary, like the entire party organization, was an extra-legal, voluntary institution. It was controlled by rules made by party managers, and whether it was conducted honestly or otherwise was not an affair

No.

OFFICIAL PRIMARY BALLOT.

Primary-Election.....
Party.

Make a cross in the square [x] in front of as many names for each office as is indicated under the title of such office.

NATIONAL.	Representatives in State Legislature. District. Vote for one.
United States Senator. Vote for one.	<input type="checkbox"/> OWEN DOLAN.
<input type="checkbox"/> JAMES H. FLYNN.	<input type="checkbox"/> EDWARD GIBBONS.
<input type="checkbox"/> GEORGE J. GLASIER.	<input type="checkbox"/> RICHARD HUGHES.
<input type="checkbox"/> FRANK H. RILEY.	COUNTY.
STATE.	Judge of Probate. Vote for one.
Governor. Vote for one.	<input type="checkbox"/> FRANK CAMPBELL.
<input type="checkbox"/> RICHARD ROE.	<input type="checkbox"/> CHARLES SCULLEN.
<input type="checkbox"/> JOHN ROSWELL.	<input type="checkbox"/> HENRY J. WILKINSON.
<input type="checkbox"/> EDWARD H. SMITH.	Circuit Court Commissioners. Vote for two.
CONGRESSIONAL.	<input type="checkbox"/> CLIFFORD BISHOP.
Representative in Congress. District. Vote for one.	<input type="checkbox"/> CLIFFORD CROSTIC.
<input type="checkbox"/> WILLIAM DUNNING.	<input type="checkbox"/> HENRY ROACH.
<input type="checkbox"/> JAMES MARA.	<input type="checkbox"/> HARRY SELSBEE.
<input type="checkbox"/> THOMAS J. WAGNER.	<input type="checkbox"/> ORR C. TRASK.
LEGISLATIVE.	<input type="checkbox"/> CHARLES WHITE.
State Senator. District. Vote for one.	Delegates to county convention. Vote for.....
<input type="checkbox"/> WILLIAM BROWN.
<input type="checkbox"/> CASPER DUNN. (.....
<input type="checkbox"/> MICHAEL J. MURRAY.

A Sample Ballot for Direct Nomination of Officers

of governmental concern. If at the primary election there were cheating and irregularities, no one could be punished. But in recent years primaries have been placed under the control of the law, and have been conducted as regularly and as honestly as other elections are conducted.

Direct Nominations. In most of the States the nomination of candidates is accomplished at the primaries by the direct vote of the members of the party. That is to say, the voters of a party go to a primary meeting, which is managed in the same way as a regular election, and vote directly for candidates. Thus, under the direct system, the voters select their own party candidates; they do not intrust the selection to party representatives or to the action of party conventions. When county officers, for example, are to be nominated, the voters of the party, instead of electing delegates to a county convention authorized to nominate these officers, express their choice for candidates at primary elections held throughout the county, and the candidates who win at the primaries are put on the ticket as the regular party nominees. If a candidate for governor is to be chosen, the voters of the party throughout the State express their choice at the primaries, and the person most in favor at the primaries becomes the regular party candidate for governor. If a candidate for President is to be nominated, the voters at the primaries elect the delegates to the National Convention, which nominates the party candidate for President and Vice-President. In about twenty States—and the number is increasing—the voters, when choosing delegates to the National Convention, are given an opportunity to express their preference in respect to the Presidential candidates. Thus, where the direct system of nominations has been adopted, the voters participate personally in the nomination of all candidates, from the lowest to the highest.

The direct system of nominations has not worked well in all of the States in which it has been tried. Too often

indifference, the great enemy of democracy (p. 6), prevails among the voters, and large numbers of them fail to participate in the primaries. The result is that the real will of the people is not ascertained. This failure on the part of the people to make known their wishes about such an important matter is a cause for great regret. Voters, by neglecting their duties at the primaries, inflict upon democracy an irreparable injury.

The Convention System. In States in which the voters at the primaries do not nominate candidates directly, the party *convention* is called into action. If county officers are to be elected, the voters at the primaries choose delegates to a county convention, and at this convention the candidates for the county offices are named. If municipal officers are to be nominated, delegates to a city convention are elected, and at this convention candidates for the municipal officers are nominated. Likewise, State officers are nominated at a State convention composed of delegates elected either by county (or city) conventions or by the voters at the primaries.

In a year in which a President is to be nominated, the State convention passes resolutions expressing its political views, naming its choice for presidential candidate—if it happens to have a choice—and in some cases elects delegates to a National Convention, the number of the delegates being twice the number of representatives that the State has in both branches of Congress. In most cases, however, a State convention elects only four delegates (called delegates-at-large) to the National Convention, the other delegates to which the State is entitled being elected at congressional district conventions, two delegates being chosen from each district. Sometimes the State convention selects candidates for presidential electors, but as a rule the electoral candidates are selected at the congressional district conventions.

Presidential Campaign. After the delegates in all the

States and Territories have been chosen, either by the direct vote of the people at the primaries or by conventions, they assemble in some convenient city as the great National Convention. This body, consisting of more than a thousand men and women, after several days of discussion, expresses the views of the party upon public questions in the shape of a platform, and chooses candidates for President and Vice-President.

After all the political parties have named their candidates the struggle for election begins. Political meetings are held, the claims of the candidates are urged, the platforms are explained and defended, and everything that can be done to influence voters is done.

The campaign, with all its faults, is a most wholesome element in our public life. It is the school-time of democracy. By it, men's attention is strongly attracted to public affairs, civic spirit is awakened, and voters are educated. The greatest objection to lengthening the presidential term is that to do so would be to deprive the people of the great educational advantage of frequent presidential campaigns.

The campaign continues until the election day in November, when the voters render their decision. They do not vote for a President directly, but for electors, as the Constitution provides (146). Since these electors are nominated and elected by a party, they are morally bound to vote for the candidate of the party that elected them, and no elector has ever proved unfaithful to the party that elected him. The President is, therefore, really elected at the polls.

The electors chosen in November meet in their respective States in January and vote for President and Vice-President. The results of this vote are despatched from the several States to the president of the Senate at Washington, and on the second Wednesday in February Congress meets to count the votes. The person receiving the majority of the votes cast for President is declared to be elected, and the person receiving the majority of the votes

cast for Vice-President is declared to be elected. When no person receives a majority of all the electoral votes, the Constitution provides that the House of Representatives shall choose a President and the Senate a Vice-President, and states precisely how the election shall be conducted (148).

QUESTIONS ON THE TEXT

1. What services do political parties render when they nominate candidates for office?
2. Describe the permanent organization of a political party.
3. Give an account of the primaries and point out their importance.
4. Describe the system of direct nominations.
5. Describe the convention system.
6. Give an account of a presidential campaign and of the election of a President.

SUGGESTIVE QUESTIONS AND EXERCISES

1. Are primaries in this State legalized? If they are not, is there a strong sentiment in favor of legalizing them?
2. Are the politicians whom you personally know better or worse than their neighbors? (Avoid using or suggesting any names.)
3. How many electoral votes has this State?
4. What Presidents were elected by Congress?
5. Show that it is theoretically possible for a man to be elected President without receiving a majority of the votes cast.
6. Show that it is theoretically possible for a single vote at the polls to decide a presidential contest.

TOPICS FOR SPECIAL WORK

1. What the Party Machine Has to Do: Jones, 175-178.
2. The Election of the President: Jones, 106-114.
3. The Electoral College: Jones, 115-124.
4. The Party Machine: Kaye, 373-378.
5. Primary Election Legislation: Kaye, 378-384.
6. Organization of Political Parties: 411-414.

PART III

THE FUNCTIONS OF THE AMERICAN
GOVERNMENT

Its Services

XXVIII

THE FUNCTIONS OF GOVERNMENT

In the first part of this book the great principles and fundamental ideas of the American political system were considered, and in the second part the formal organization of the several grades of government that are included in that system was studied. In this, the third part, we shall be concerned with what our government does; that is, we shall be concerned with the functions or services of the American government. But before we take up the particular topics of this division it will be best to glance at the subject of governmental functions in general.

Scope of Governmental Activity. The services rendered by the different governments of the earth vary with the racial instincts and character of the people whom the governments serve. They vary not only from country to country, but they also change in the same country from year to year. It follows, therefore, that any enumeration of the functions of government must be more or less typical in character. Still, such an enumeration is useful, since it gives a general idea of the scope and nature of governmental activity. A typical progressive government like our own does the following things:

(1) It makes new laws to meet the ever-changing conditions of society.

(2) It renders justice between man and man, and between man and the State.

(3) It provides a defense against foes.

(4) It protects and promotes its international interests.

(5) It supports itself by means of taxation.

(6) It borrows money in times of stress.

(7) It coins money and provides a currency adequate for the needs of trade.

- (8) It regulates foreign commerce.
- (9) It regulates immigration.
- (10) It exercises control over the agencies of transportation.
- (11) It strives to prevent monopoly and encourages competition in business.
- (12) It conserves natural resources.
- (13) It conducts the election of public officers.
- (14) It provides for the education of the young.
- (15) It guards the interests of workingmen.
- (16) It strives by special legislation to improve living conditions.
- (17) It defines and punishes crime.
- (18) It helps paupers and incapables.
- (19) It safeguards the public health.
- (20) It promotes the public safety and the public morality.
- (21) It promotes the welfare of the people in urban and in rural communities.

Nearly every modern civilized government does all of the above things, and some governments do much more. In most of the countries of Europe the railroads, the telephone and telegraph systems, and in some instances the mines, are operated by the government. In many of the cities of Europe the scope of governmental authority is still further enlarged, embracing not only such functions as the supplying of gas and water, but extending to such services as the maintenance of public baths, laundries, pawn-shops, savings-banks, and lodging-houses. In London the city government has gone so far as to supply sanitary milk to the poor classes.

Government and the Individual. The functions of government in all progressive countries are increasing and must continue to increase. Civilization is growing more complex; human interests are multiplying and conflicting with one another as never before; population is increasing with

startling rapidity and is crowding into the cities; invention and processes of manufacture and methods of business are changing the face of the industrial world. The circumstances of this modern life do not permit the large individual freedom of former days. In order to make the proper social adjustments under the new conditions, government must step in and do things that it has not done before, and that in a past age it would not have ventured to do, and with each new function added to government personal liberty is to some degree curtailed. The individual withers as the state grows more and more.

But government in a democracy can not assume an additional function without the consent of the voters. The voter, therefore, is constantly called upon to determine the proper limits of governmental activity. Shall the government operate the railroads, or shall individuals continue to operate them? Shall the municipal government furnish the people with ice, as it furnishes them with water, or shall the ice be furnished by private enterprise? Shall the government carry telegraphic messages, as it carries letters, or shall the telegraph business remain in private hands? Shall the municipality provide a free lunch for school children, as it provides free text-books, or shall parents attend to the lunches? Shall government regulate the hours of labor, or shall each man be permitted to work as many or as few hours as he pleases? In all such questions the voter must decide either in favor of the individual or in favor of the state.

Political science can not point out to the voter precisely what government should do and what it should not do, for the sphere of government cannot be circumscribed "by the ring fence of a definition"; but political science can sound a note of warning. The most judicious of all men who have written on the subject of human liberty, John Stuart Mill, has sounded this note in the clearest tones.

"Whatever theory," he says, "we may adopt respecting the foundation of the social union, and under whatever

political institutions we live, there is a circle around every individual human being which no government, be it that of one, of a few, or of the many, ought to be permitted to overstep; there is a part of the life of every person who has come to years of discretion within which the individuality of that person ought to reign uncontrolled either by any individual or by the public collectively. This reserved territory ought to include all that part which concerns only the life, whether inward or outward, of the individual, and does not affect the interests of others, or affects them only through the moral influence of example." Here is a test that should be applied to every proposed extension of governmental authority. When government is permitted to invade one's private life and make regulations in respect to matters that do not directly and closely and powerfully affect the outer social world, human liberty suffers a loss for which no governmental service, however great, is likely to be a full compensation.

Individualists; Socialists. In the field of practical politics we find men differing widely in their views as to the proper sphere of government. One class, known as individualists, believe that the state should be severely limited in its activities. The individualists would have the government protect the nation against foes, and persons and property against violations; and to these merely protective functions he would add certain others, such as the management of the post-office, the establishment of public schools, the improvement of rivers and harbors, the maintenance of highways, and the regulation of the means of transportation. Further than this the individualist is reluctant to go, for he believes that to go further would be to trespass upon a field of activity that properly belongs to private enterprise and effort.

Opposed to the individualists are the socialists. The socialists believe in an enormous increase in the functions of government. Under socialism the state would own and

control not only all the means of transportation and communication—railroads, steamboats, canals, telegraph and telephone lines—but it would also own and control all the means and instruments of production—the mines and forests and farming lands, and shops and factories and mills. Under such a program individual enterprise would disappear almost entirely, and there would be substituted in its place the collective effort of society. The state would be a great joint stock company whose membership would comprise the whole body of citizens, and whose object would be to provide for the material wants of its membership. Of course, if the state should be the sole producer, it follows that it would also make a distribution of the products, giving to each person (each member of the joint stock company) his just portion of the goods produced. What the portion of a given individual would be would depend upon the quantity and quality of the labor that the individual performed. If a person able to work performed no labor at all, he would get no portion at all and would consequently starve to death. Under the socialist program everybody able to work would be compelled to work.

QUESTIONS ON THE TEXT

1. Enumerate the functions of a typical progressive government.
2. What circumstances tend to strengthen the state at the expense of the individual?
3. What is Mill's rule for the limitation of governmental authority?
4. What is the doctrine of the individualist in respect to the functions of government?
5. What is the doctrine of the socialist in respect to the functions of government?

SUGGESTIVE QUESTIONS AND EXERCISES

1. Enumerate the functions of your town or city government. Is it doing anything that could be better done by private enterprise? What things are now being done by private enterprise that could be better done by the municipal government?
2. Where is there more individual liberty, in the city or in the country?

3. Prepare a ten-minute paper on "The Municipal Functions of Glasgow." (Consult Shaw's "Municipal Government in Great Britain.")

4. Determine in which of the following instances there would be a violation of the rule laid down by Mill and given in the text: The government (*a*) compels everybody to be vaccinated; (*b*) forbids the reading of certain books; (*c*) forbids the sale of certain books; (*d*) furnishes the milk that must be drunk; (*e*) furnishes the virus that must be used in vaccination; (*f*) compels everybody to attend church; (*g*) compels everybody to attend a certain church; (*h*) forbids the sale of oleomargarin; (*i*) compels dealers to label oleomargarin as such; (*j*) forbids the use of oleomargarin altogether; (*k*) compels parents to send their children to school; (*l*) compels parents to send their children to certain schools.

5. Of the following enterprises name one, if there is one, that should be undertaken by government in this country: (*a*) The operation of telegraph lines; (*b*) the operation of railroads; (*c*) the operation of trolley lines in cities; (*d*) the operation of coal mines; (*e*) the manufacture and sale of gunpowder; (*f*) the manufacture and sale of illuminating gas; (*g*) the manufacture and sale of ice.

6. If government should undertake the enterprises named above, to which of the several grades of government, local State, or federal, would each enterprise be assigned?

TOPICS FOR SPECIAL WORK

1. The Functions of Government: Bullock, 514-528; Gettell, 501-519.
2. Personal Liberty vs. Governmental Authority: Kaye, 392-397.
3. Outlines for the Socialist State: Spargo, 235-276.
4. Socialism in the Light of Sociology: Ellwood, 354-370.
5. Governmental Enterprise in the Non-Essentials: Kaye, 402-410.

XXIX

LAWS

One of the constant services of a popular government is to make laws suitable to the ever-changing conditions of society. Since the American voter is indirectly a law-maker—where the initiative and referendum are in use he is a direct law-maker—he ought to have clear and just notions respecting the nature of laws. He ought to know what a law is and what are the characteristic features of a law, and he ought to have sound ideas in respect to what law can do and what it can not do. In this chapter we shall consider those phases of the subject of law that are of practical interest to citizens and voters.

What a Law Is; Different Kinds of Law. A law is a formal expression of the will of society in respect to some matter of social concern; it is a rule of action made by government and enforced by the sovereign authority of the state. A rule of action that can not invoke for its enforcement the whole power of the state is not a law in the sense in which the word is here used.

A useful classification of American laws may be made by considering their origin and grouping them according to the sources from which they have emanated. Such a classification gives us the following groups of laws:

(1) *Constitutions* (federal and State).

(2) *Initiative and Referendum Laws*. These originate with the people and are a direct expression of the people's will.

(3) *Statutory Laws*. These are the laws that have been formally passed and promulgated by a legislative body. They include the treaties made by the United States, the statutes of Congress and of the State legislatures, the ordinances of municipal councils, and the by-laws of town-

meetings. There must be placed in this class also those laws of the colonial assemblies and of the British Parliament that were in force in the colonies at the time of the Revolution and that have never been repealed.

(4) *The Common Law.* A fourth class of laws consists of a set of rules and principles that have not been promulgated by a legislature, but that have grown out of custom and usage and have been gathered from judicial decisions (p. 178) and from the opinions of jurists. These rules and principles constitute the *common law*. Constitutional laws and statutory laws are written, but the common law may be said to be unwritten, for its rules are not formulated specifically in written documents. Most of the rules of the common law came to us from England; but custom is making laws in America all the time, and when an American custom has hardened into a law that law is to be classified as belonging to the common law. The rules of the common law are so fundamental and so important that they are often called the "great body of the law"—the vital principles of all law.

Some of the Characteristic Features of Law. Among the characteristic features of a law are several that frequently have a practical bearing upon daily conduct: (1) All laws are equally binding. If a law originated from a rightful source and conflicts with no higher law, it is binding, whatever may be its origin. A by-law of a town-meeting is as relentless in its operations as a law of Congress, and if necessary armies and fleets will assist in its enforcement. (2) The law is no respecter of persons. Everybody, rich or poor, high or low, who comes within the scope of the authority of a law must obey it. (3) Ignorance of the law excuses no one. When a law is passed, means are sometimes taken to give it publicity by advertising it in newspapers, but government does not undertake to inform everybody of every law that is passed. It is assumed that citizens are able to learn what the law is, and the maxim is

that "to be able to know is the same as to know." This rule sometimes works hardships, but it could not safely be changed. (4) A law remains in force until it is repealed. "Laws sometimes sleep, but never die."

Law-Making and Public Opinion. For the regulation of the varied interests and activities of our busy and progressive life, thousands of laws have been made and thousands more are making. This production of laws can not cease. As a community develops, the laws must keep pace with the new conditions. Steam has called forth hundreds of laws, and electricity is constantly presenting problems for the consideration of the law-maker. Not only must new laws be made, but old ones must be repealed or amended. The ideas of men concerning right and justice change, and it is the business of the legislature to make the law conform to existing views. To meet the demand for new legislation the energies of our legislatures, municipal, State, and federal, are taxed to the utmost. Frequently more than a thousand laws are passed at a single session of a State legislature, and it has been estimated that the combined output of Congress and of all the State legislatures is nearly twenty thousand laws every year.

In this hurly-burly of law-making the voter takes a part: he chooses the representatives who make the laws, and in this way is brought very close to the actual work of legislation. When considering a proposed law there is one rule the voter should keep in mind, and that rule is this: A law should not be enacted if public opinion is strong against it. Public opinion is the moral force that at a given time sways and controls a community. This force may be low or it may be elevated, but it is always a controlling force. In an absolute monarchy, as well as in a republic, successful resistance to public opinion is quite impossible. If people are ruled by a despot, it is because they desire to be ruled in that way; the despotism falls as soon as public opinion is hurled against it. Laws as well

as other things must bend to this irresistible power. In deed, we may say that a good and useful law should always be enacted by public opinion before it is passed through the legislature.

We can not always tell on which side of a question public opinion really stands, and can not for this reason always determine in advance whether a proposed law will receive its support or not. We may not be able to tell what public opinion *will* do, but there are several things we may confidently predict it will *not* do:

(1) *It will not support laws that require for their enforcement a much higher average of morality than that which already exists.* A member of a State legislature introduced a bill enacting the ten commandments and the golden rule into laws. If the people of the State at the time were generally obeying the commandments and the golden rule his bill was not altogether absurd, but if they were considerably below this grade of morality his bill was as preposterous as it would have been if it had provided that all men should be happy, and that rivers should flow with milk and honey. Legislation may punish law-breakers, but it can not make men good.

(2) *It will not support laws that provide for a wide departure from present habits and customs.* Men are creatures of habit; they are prone to act to-day as they acted yesterday; and when a law demands a sudden and radical change in deeply rooted customs it does violence to human nature. Englishmen are accustomed to say that there is nothing which their Parliament can not do. There is doubtless one thing it can not do: it can not make the people of England abandon their clumsy custom of reckoning money in pounds, shillings, and pence.

(3) *It will not support ideal schemes of government.* Society is a mixture of good and evil; and, while the majority of men in a state are never utterly base, neither is the majority ever supremely good. Laws, therefore, that are framed upon the assumption that men are ideal crea-

tures will not secure the support of public opinion. Here is where well-meaning people often err. They plan for a state in which there is no selfishness or injustice or wrongdoing. They construct ideal commonwealths, apparently forgetful of the fact that they themselves would not be willing to live for six months under one of their own creations. Many ideal commonwealths have been proposed, but no sane man ever yearned to live in one of them. Public opinion will support laws that make for the betterment of social conditions—it is constantly doing this—but it will ruthlessly shatter the fabrications of dreamers. Still, there should be no sneer for the reformer; for, after all, it is he that does most to elevate public opinion and to lead men to higher and better things.

(4) *It will not support arbitrary or whimsical laws.* Very often the law has attempted to regulate things that ought to be left to regulate themselves. Thus, laws have been passed limiting the number of dishes to be served at a dinner, and prescribing the kind of jewelry that might be worn. A Scottish parliament was once rash enough to attempt to regulate the amount of money that women should spend for dress. Regulations of this kind are called sumptuary laws. They have nearly always failed to receive the support of public opinion.

Obedience to Law. Laws that do not receive the support of public opinion are sure to be violated, while the violators go unpunished. This is the great mischief of such laws. A law is made to be obeyed. We may not like a law; we may think a law foolish or harsh or unjust; yet, as long as it is a law, we should obey it. To obey a bad law might work some temporary inconveniences, but these would not be so regrettable as would be the habit of violating the law with impunity. Obedience to the law is an essential feature of good citizenship under any form of government. Especially is this true in a democracy, where all laws flow from the people, and where the citizen looks to law and not

to a monarch, not to a person, for the protection of his rights. When citizens in a democracy begin to lose their respect and reverence for the law and to disregard its commands, they are preparing a way for anarchy, and anarchy leads to despotism. Society can exist only where the laws are obeyed, and it is sure society must and *will* exist. If the people will not obey their own laws the tyrant will come forward and impose his laws upon them and compel obedience. The man on horseback, the man of blood and iron, is better than social chaos.

QUESTIONS ON THE TEXT

1. What is a law? Classify our laws with respect to the sources from which they have emanated. What is the common law?
2. What are the several characteristic features of a law?
3. What connection is there between voting and law-making?
4. Define "public opinion."
5. Name the kind of laws public opinion is not likely to support.
6. Give reasons why laws should be obeyed. What would be the result of a general disregard of laws?

SUGGESTIVE QUESTIONS AND EXERCISES

1. Name some new inventions that will be likely to call forth new laws.
2. "A law passed to-day ought not to bind future generations. A law ought to repeal itself after it has been in force for twenty-five years." What would be the disadvantages of limiting the binding force of all laws to a brief period?
3. Would you vote for a law which provided that no child under twelve years of age should appear on the streets alone after nine o'clock in the evening? for a law which forbade ladies to wear the feathers of birds in their hats? for a law which forbade boys to smoke cigarettes? for a law which forbade girls to chew gum? for a law which compelled street-car companies to furnish seats to all passengers? for a law which forbade the ringing of church bells? for a law which provided that pupils should always know their lessons? Give reasons for each of your answers.
4. "The best way to get a bad law repealed is to enforce it." Is it better for judges to enforce a bad law and thus hasten its formal repeal by a legislature, or to allow violators of it to go unpunished?
5. Name a few of the social and intellectual forces that go to make up public opinion.
6. What will be the course of a true statesman who finds that his opinion does not agree with public opinion?
7. Define *statute*, *by-law*, *ordinance*, *constitution*.

8. Watch the proceedings of the State legislature and of Congress and report important legislation. (Your Representative in Congress will probably furnish you with the "Congressional Record.")

9. Read Thomas More's *Utopia* and mention the things in Utopia which you like and which you believe would be supported by public opinion in the United States.

10. *Public Opinion Law*. In Illinois it is provided by law that, upon petition of ten per cent. of the voters of the State, any question of public policy may be submitted to the voters of the State. The vote upon a question thus submitted does not bind the legislature, but merely serves as an expression of public opinion; and it is an indication of what the people want. What do you think of this device? Compare its merits with those of the initiative.

TOPICS FOR SPECIAL WORK

1. The Enforcement of the Law: Reinsch, 26-41.
2. Relations of Law to Morality: Gettell, 192-194.
3. The Sources of Law: Beard, 553-557.

XXX

JUSTICE

In the preceding chapter we learned that one of the constant tasks of government is to provide wise and just laws for the people. But after laws have been enacted they must be administered in a wise and just manner. That is to say, it is the function of government to administer the laws in accordance with the principles of justice. Let us, then, in this chapter learn of the services rendered by government when engaged in the administration of justice.

Administration of Justice the Highest Function of Government. Of all the services rendered by government, the highest and noblest is to maintain justice among men—to see that every person receives that which is his due. For this purpose government is organized, constitutions are framed, laws are passed, officers are elected, and armies and navies are maintained. To establish justice was one of the great objects sought when the Constitution of the United States was ordained (1). “The most sacred of the duties of a government,” said Thomas Jefferson, “is to do equal and exact justice to all its citizens.” “Justice,” said Alexander Hamilton, “is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty is lost in the pursuit.”

Fundamentals of American Justice. In previous chapters we have learned of the organization of the judicial machinery that has been set up for administering justice. It is the duty of the judges in the courts to try cases upon their merits and to pronounce judgment with the view of dispensing even-handed justice to all parties concerned. But the judge, in pronouncing judgment, is not free to

follow his desires or his whims or his prejudices. For in the United States there are standards and principles of justice, which bind all courts, whether municipal, State, or federal, and no judge in any court can lawfully render a decision that fails to measure up to the standards or that conflicts with the principles. Moreover, no person, whether humble or exalted, can hope to ignore the standards without incurring the penalty that goes with the doing of an injustice. Many of the fundamental rules of justice are clearly stated in the Constitution of the United States and in the constitutions of the several States. Of the principles that have universal application, those that relate to life, liberty, property, and equality before the law are of supreme importance and must therefore receive special attention.

I. *Life.* A government that is trying to be just will safeguard human life in every possible way. And this is what our government does. No person in America can be deprived of his life without due process of law (138). When the life of a man is at stake, he may demand (1) that there be a court of law for the trial of his case; (2) that the proceedings of the trial be regular; and (3) that the trial be fair. What the regular course of procedure in a particular State shall be is a matter for the State itself to determine; but, after the State has once decided upon the course that justice shall take, after it has once established the processes of law, it can not deprive any person of the benefits that arise from the processes. The features of justice arising from due process in the federal courts may be learned in the fifth, sixth, seventh, and eighth amendments to the Constitution. Those that arise from due process in the courts of the State may be learned in the bill of rights in the State constitution. Study these amendments and study the bill of rights, and you will learn to appreciate the truth that when the life of an American citizen is put in jeopardy, government may always be relied upon to prevent justice from going awry.

II. *Liberty*. And the door of justice is always open to the citizen who is threatened with the loss of his freedom. For the American citizen is secure in his personal liberty. He may move about freely from place to place; he may choose a residence and live in the place of his choice for as long a time or as short a time as he desires; he may engage in whatever lawful occupation he may see fit. This freedom he may enjoy without let or hindrance, as long as he remains a law-abiding citizen. If his liberty is interfered with, if he is unlawfully imprisoned or put into confinement, he may invoke the aid of the writ of *habeas corpus*. Whenever a man is placed in confinement against his will, the fact may be made known to a judge of a court, and the judge, unless he knows the confinement to be legal, is bound upon application, to issue *immediately* a writ of *habeas corpus* commanding the prisoner to be brought before him for examination. The underlying purpose of the *habeas corpus* proceeding is to determine whether the person in whose behalf the writ is sought is detained or held in custody lawfully or unlawfully. If it seems to the judge that there is cause for the detention of the person, he is sent back to prison to await a full trial; if there seems to be no cause, he is promptly set free. The privileges of this beneficent writ are granted to all persons under the laws of the States, and may not be suspended by the federal government unless, as in cases of rebellion or invasion, the public safety may require it (64). In no case, however, may the writ be suspended by the federal government unless the suspension is authorized by Congress. Thus the writ, under the laws of the State and of the United States as well, is available as a powerful instrument for securing justice.

III. *Property*. The citizen may expect justice in respect to his property as well as in respect to his life and liberty. For in America the machinery of justice lends itself fully to the protection of property rights. If a man owns a thing it can not be taken from him without due

process of law (138, 152). If any one attempts unlawfully to deprive a man of his property, government will come to the aid of the owner. If a mob should wantonly destroy property and it could be proved that the destruction was due to the inefficiency of the police, the local government could in some cases be compelled to make good the loss. The government will go to almost any length in its efforts to protect property, so sacred it is in the eyes of the law.

There is a limit, however, to the government's respect for property rights. If lands or buildings are needed for public purposes, the government will take them, even though the owner does not wish to part with them. It will do this through exercise of the power of *eminent domain*, a power that resides in the State, and also, by implication, in the federal government. But when property is taken it must be for public purposes, and the owner must be fully compensated for his loss (138). So, even when the power of eminent domain is brought into use, there is no confiscation of property.

IV. *Equality Before the Law*. In the fourteenth amendment to the Constitution it is provided that no State shall deny any person within its jurisdiction the equal protection of the laws (152). Here is the guiding star of American justice. Government, in its dealings with men seeking justice, must treat all persons alike; it must not make fish of one and fowl of another. In our courts at least, the words of the Declaration of Independence asserting the equality of all men are something more than vain and empty words. "Here," said Senator Charles Sumner, speaking of the fourteenth amendment, "is the great charter of every human being drawing vital breath upon this soil, whatever may be his condition or whoever may be his parents. He may be poor, weak, humble, or black; he may be of Caucasian, Jewish, Indian, or Ethiopian race; he may be of French, German, English, or Irish extraction; but before the Constitution all these distinc-

tions disappear. He is not poor, weak, humble, or black; nor is he Caucasian, Jew, Indian, or Ethiopian; nor is he French, German, English, or Irish. He is *Man*, the equal of all his fellow men."

A Needed Reform in the Administration of Justice.

While our laws and constitutions provide for even-handed justice to all men, rich and poor, strong and weak, it is nevertheless true that in one respect at least our system of justice is not working as well as it ought to work. The very poor do not find it as easy to secure justice as we would like them to find it. When they wish to go into court with their little troubles, they too often find three things standing in their way: delay in the trial of their cases, court fees, and the expenses of employing a lawyer. Let us illustrate their difficulties by a typical case. Here is a wage-earner with a claim for ten dollars for which he has given honest toil. He knows that the money is due him and that he could secure favorable judgment in a court. But he finds that if he should bring suit he would have to wait months before he would be able to collect the money, which he needs at once. So he hesitates to go into court with the claim because of the delay. Then, he is discouraged by the cost of the suit; for he finds that he can not escape court fees and witness fees amounting to a considerable portion of his little claim. But worse than the delay or the court fees is the expense of employing a lawyer; for usually, in the trial of a case, a lawyer is almost as necessary as a judge. When our claimant reflects that the lawyer's fee alone would amount perhaps to as much as the claim, he decides not to sue for his money. He either compromises with the dishonest man who employed him, by accepting a part of what is due him, or he goes unpaid. Thus delay and costs and the lawyer's fee prevent this poor man from entering the halls of justice.

It must not be thought that cases like the above are few in number. A recent painstaking investigation presents

an array of facts showing that a very large number of our citizens fail to receive justice, and that the failure is due solely to their poverty.¹ Not that there is any discrimination against the poor in the courts, for there is not. In our temples of justice rich and poor are treated alike. The whole trouble lies in the fact that the very poor find it difficult to get their cases into court.

This particular defect in the administration of justice is so grave that statesmen are demanding a reform. Recently ex-President Taft, speaking of reforms in the administration of justice, said: "We must make it so that the poor man will have as nearly as possible an equal opportunity in litigating as the rich man; and under present conditions, as ashamed as we may be of it, this is not the fact."

In many places the cause of the poor has found champions, and reforms have been undertaken. In Kansas, some years ago, the attorney-general—so the story runs—having learned that a well-to-do man refused to pay a certain washerwoman three dollars that he owed her, and that she was unable to bring suit because of her poverty, determined that government in such cases ought to lend a helping hand. Accordingly he drew up a bill providing for the establishment of small debtors courts, in which cases involving sums not exceeding twenty dollars might be *speedily tried without any costs at all and without the services of a lawyer*. His bill was passed, and to-day there are small claims courts in Topeka, Leavenworth, and Kansas City dispensing justice to the poor promptly and without expense. Likewise in Cleveland, Chicago, Minneapolis, and Portland (Oregon) there are courts where the poor may receive justice at little or no expense. In Los Angeles there is a public officer, known as the police court defender, who without charge defends persons accused of crime, asks mercy when mercy is deserved, and assists the judge in a just disposition of criminal cases.

¹ See *Justice and the Poor*, a bulletin prepared by Reginald Heber Smith and published by the Carnegie Foundation for the Advancement of Teaching.

Also in Omaha and Columbus provision has been made for the office of public defender. Thus the path to this needed reform has already been blazed.

“Fiat Justitia.” Public-spirited citizens must join in this movement and carry the good work forward with all possible speed. For it is just as necessary that everybody shall receive justice as it is that everybody shall obey the law. Champions of democracy and human rights, therefore, should not cease in their labors until every barrier to justice is removed, until it is impossible for any person to say with truth that the door of justice is closed against him. If they shall persevere in this high endeavor, rich indeed will be their reward. “Whoever labors,” says Daniel Webster, “on the edifice of justice with usefulness and distinction, strengthens its pillars, adorns its entablatures, or contributes to raise its august dome still higher to the skies, connects himself in name and fame and character with that which is and must be as durable as the fame of human society.”

QUESTIONS ON THE TEXT

1. Why is the administration of justice the highest function of government?
2. What safeguards are thrown around human life in America?
3. In what way is personal liberty made secure?
4. To what extent is property sacred in the eyes of the law?
5. What is meant by equality before the law?
6. Why do the very poor often find it difficult to obtain justice? What efforts have been made to assist the poor when seeking justice?
7. Why should citizens assist in carrying forward reforms of this kind?

SUGGESTIVE QUESTIONS AND EXERCISES

1. What provisions are made in the constitution of the State for securing justice?
2. What provisions are made in the Constitution of the United States for securing justice?
3. Frame a definition of justice.
4. Have any instances of injustice at the hands of the govern-

ment been brought to your attention? If so, was the failure to render justice due to the laws or to the officers of the government?

5. Of the safeguards of justice mentioned in the text, which is the most important?

6. What did Jefferson mean when he said (in the Declaration of Independence) that all men are equal?

7. Do the poor in this community suffer because they find it hard to secure justice? Have any special courts been established in this State to make it easier for the poor to secure justice? If so, describe the organization and workings of such courts.

8. Is there need in this State for reform in the administration of justice? If so, what reforms would you suggest?

TOPICS FOR SPECIAL WORK

1. Delays in the Enforcement of the Law: Reinsch, 173-180.
2. Justice and the Poor: Reginald Heber Smith's Bulletin, published by the Carnegie Foundation for the Advancement of Teaching.
3. Justice and Charity: Zueblin, 149-176.
4. Due Process of Law: Munro, 291-294.

XXXI

DEFENSE

Foremost among the functions of government is that of providing a defense against public foes. What is the American system of national defense? What is our policy in respect to military matters? Upon what does the State rely for protection against attack?

Defense an Indispensable Function of Government. Defense against public foes is an indispensable function of government. Every nation has its enemies, external and internal. A foreign power, impelled by avarice or ambition or revenge or envy, may wage war upon us, or a lawless element at home may threaten the security of life and property. The principle of self-preservation requires that a nation be prepared to resist the attacks of both these classes of foes, and self-respect demands that resistance be actually offered when offense is given. The doctrine that we should passively fold our arms and not resist an attack upon our persons or an invasion of our country is contrary to the teachings of experience and to the facts of human nature. Hasten the day when war and lawlessness shall cease; but until they shall cease nations must be prepared to meet force with force.

National Defense. The Constitution has made it possible for the entire fighting strength of the American nation to be hurled against an enemy. For Congress has the power of raising and supporting armies and navies (56, 57) and of making rules for their control (58), and in the exercise of this power it is practically unfettered. It may avail itself of every dollar of the nation's wealth and of every man fit for military service. The power to declare war

also rests with Congress (55), although the President by his acts may bring matters to such a pass that war is inevitable. Still, responsibility for the formal declaration of war rests with Congress, not with the President.

The instruments of national defense are the army and the navy.

I. *The American Army.* The first Congress that met (in 1789) created a Department of War and the office of Secretary of War, and made plans for a national army. The regular army established by the new government consisted of only a few thousand men—a force just sufficient to keep the Indians in order. The policy of maintaining a small standing army, inaugurated in the beginning of our history, has been continued to the present time. In time of war we have put into the field more than four million men; but in times of peace our army has always been small—ridiculously small when compared with the standing armies of the great powers of Europe.

The policy of supporting a regular army no larger than is consistent with national safety is undoubtedly sound. The army is always under the control of the executive (92), and if it were overwhelmingly large it might be used—as in the history of nations it often has been used—for bringing on a war that might have been avoided. Then, a stupendous standing army means the reign of militarism within the state, and militarism is only another word for despotism. Moreover, a large standing army is maintained at an enormous cost. For, next to the cost of war itself, the costliest thing in the world is armament in times of peace. Congress may provide for a large army or a small one, as it seems fit; but the provision can not last longer than two years (56). In placing this limitation upon Congress, the Constitution makes it impossible for a large standing army to be imposed permanently upon the people without their consent. At present the regular army of the United States numbers about 280,000 men.

In an emergency, when the regular army is too small

for immediate needs, the federal government may call the *militia* to its assistance. The militia consists of practically every able-bodied man in the United States between the ages of eighteen and forty-five. The full strength of the militia is something like 25,000,000 men; but this is the unorganized strength. The organized militia, known as the National Guard, consists of less than 100,000 men.

For purposes named in the Constitution (59), the President calls the militia into service, specifying the number of troops each State is to furnish. If a State should fail to furnish its quota, the number of men required would be enrolled under the authority of the President. While in the service of the United States the militia is subject to the rules and discipline of the regular army (60), although its officers are appointed by State authority.

Soldiers, both for the regular army and for the National Guard, are recruited under the volunteer system. When troops additional to the regular army are needed, the President may call for volunteers, requesting from each State a number apportioned to its population. When a sufficient number of volunteers can not be obtained, there must be a *draft*. The names of those fit for military service are secured, and from these the required number is *drawn*, usually by lot. During the Civil War the draft was brought into use and in 1917-18 the names of nearly 24,000,000 men were registered under the Selective Draft Act, which provided for the drafting of soldiers for the army that was thrown against Germany.

The President is officially commander-in-chief of the regular army and of the militia when it is in the service of the United States (92). A President has never personally directed the movements of armies in the field. The real management of a war falls upon the Secretary of War, the head of the War Department. This officer has supervision of the army in times of war as well as in times of peace. He acts through the chief of a staff of trained officers who have direct control of the troops. A most im-

portant duty of the Secretary of War is to care for the material welfare of the army. In this he is assisted by the quartermaster-general, who attends to the clothing and the transportation of troops; by the commissary-general, who supplies the food; by the chief of ordnance, who supplies the arms; by the surgeon-general, who provides medicine and assistance for the sick and wounded; by the adjutant-general, who conducts the correspondence of the War Department.

It is estimated that ten per cent. of the population and wealth of the United States is situated on the sea-coast, exposed to destruction by hostile naval forces. The defense of this life and property is the duty of the War Department. The great seaports are defended by land batteries, consisting usually of powerful guns which rise from a pit, discharge their shells, and disappear to be reloaded. The waters in the neighborhood of a seaport may be sown with torpedoes which may be exploded by an electric spark produced by an operator on shore. The difficulty of defending a seaport is very great, for a modern battle-ship can shell a city if it is allowed to approach within ten miles of it. Nevertheless, we have along our coast guns that can hurl projectiles a distance of twenty miles.

II. *The American Navy.* The affairs of the navy were managed by the War Department until 1798, when Congress established the Department of the Navy, and created the office of Secretary of the Navy. The President is commander-in-chief of the navy, as he is of the army, but he delegates his authority to the Secretary of the Navy. Of course the actual fighting is done by trained seamen.

In recent years systematic efforts have been made to build up a strong American navy, and in the war with Germany it was shown that these efforts have not been made in vain. We have a navy upon which we may rely. Our ships have endurance and speed, and our guns fire quickly and surely. In its fighting strength our navy ranks second among the navies of the world.

State Defense. For the defense of life and property within its borders, the State in most cases relies wholly upon its citizen soldiers, its militia. The right of a State to the services of a well regulated militia is guaranteed by the Constitution (134). In times of war, as we have seen, the militia is under the control of the President, but in times of peace it is subject to the orders of the governor. When the laws of the State are resisted and the local authorities are unable to suppress the lawlessness, the governor sends the militia to the assistance of the local forces. If the militia is unable to suppress the law-breakers, the State legislature, or the governor, may make application for aid to the President (121), who, if the case seems to warrant it, will send troops of the regular army to the scene of disorder. If the lawlessness interferes with the operation of the federal government, as with the carrying of its mails, or if it obstructs interstate commerce, the President may send federal troops and suppress the law-breakers without waiting for an application from the State authorities.

In a few States there have been created special central agencies of defense in the form of State constabularies. Thus in Pennsylvania the State government maintains a police force consisting of several hundred trained men. The members of this constabulary are empowered to make arrests without warrant, in any part of the State, for any violations of the law that they may witness. The State police force coöperates with the local authorities in preserving law and order. The chief purpose of such a State constabulary is to assist in suppressing mob violence.

Local Defense. Besides the militia, there are two other upholders of law and order within the State. These are the sheriff and his posse, and the local police force. The posse (*posse comitatus*, the county force) consists of all the able-bodied men in a county (or city). These the sheriff may call to his aid at any time to suppress violence,

although men who have not been drilled and disciplined are not likely to render efficient service. The local policemen and constables, of whom there are more than one hundred thousand in the United States, are the every-day guardians of the public peace. They are "the eyes and ears as well as the hands of the body politic; not only the means of governmental apprehension, but of discovery; the agents of prevention as well as of cure."

Civil Government and Martial Law. It should be noticed that in the United States those who wield the sword are under the control of civil officers. The general obeys the President, the officers of the militia take their orders from the governor, the police are controlled by a board of civilians. This subordination of the military to the civil power accords strictly with American notions of government. We have no place in our system for martial law—law administered by soldiers and at variance with the principles of civil liberty. By suspending the writ of habeas corpus, citizens may be temporarily deprived of their civil rights and placed under martial law; but this can be done only in the name of the public safety (64). A State can not maintain armed troops in time of peace and thus threaten the permanency of civil rights (76). Neither can the federal government in time of peace harass the people by quartering soldiers in the homes of citizens without their consent (135); and even in time of war such quartering must be done under the authority of civil and not under the authority of military law. Thus, while we make ample provision for the defense of the nation and the State, we take every precaution to prevent the instruments of defense themselves from becoming a menace to civil government and to civil liberty.

QUESTIONS ON THE TEXT

1. What causes compel a nation to provide a defense against possible foes?
2. What military powers does the Constitution give to Congress?

3. What has been the policy of the United States in reference to a standing army? What are the disadvantages of a large standing army?

4. What does the Constitution provide in reference to the militia?

5. What are volunteers? What is a draft?

6. Name the principal officers who conduct a war and state their duties. How is the sea-coast defended?

7. What has been the policy of the United States in reference to its navy?

8. Describe the militia system of a State.

9. What is a *posse comitatus*? What are the functions of the local police?

10. Explain how the military is kept subordinate to the civil authority of the United States.

SUGGESTIVE QUESTIONS AND EXERCISES

1. What have been the most fruitful causes of war in the past?

2. In which century in the history of the world have the greatest wars occurred?

3. Name five great military heroes. Should the incomparable honor that is accorded to military heroes be set down as one of the causes of war?

4. What does the United States spend each year upon its army and navy? What is this State's share of this amount? Compare this with the amount spent by the State for its public schools.

5. Why should Iowa as well as New Jersey contribute to the support of the navy?

6. Name a war that has been a blessing to mankind. Explain.

7. What is said in the constitution of this State in reference to a militia? in reference to the subordination of the military to the civil power?

8. Of how many men does the entire militia of this State consist? Of how many does the organized militia consist?

9. What services has the militia of this State rendered in recent years?

10. Which could we more safely dispense with, school-houses or battle-ships? Could we have one without the other?

11. Contrast the evils attending war with its beneficent features.

12. Do you sincerely wish that there will never be another war? What things can you, as an individual, do to help the cause of peace?

TOPICS FOR SPECIAL WORK

1. War Power and Civil Rights: Johnson, 482-490.

2. Martial Law and the Constitution: Johnson, 491-499.

3. The Finances of a War: Carver, 514-527.

4. The Pennsylvania Constabulary: Reinsch, 217-222.

5. The War Powers: Munro, 265-276.

XXXII

INTERNATIONAL RELATIONS

A governmental service of the highest importance is the management of international affairs. In this chapter we shall learn of the principles that guide nations in their dealings with each other, and of the methods by which diplomatic intercourse between the United States and other nations is established and maintained.

International Affairs Regulated by the Federal Government. The power to direct foreign relations is a sovereign power, which belongs in the United States to the federal government. International affairs have never been regulated by the State at any stage of our national development. Under the Articles of Confederation, relations with foreign countries were conducted by Congress; under the Constitution the State is expressly forbidden to enter into political relations with foreign countries (72), and the management of international affairs is given to the President and the Senate.

International Law. Progressive nations have not isolated themselves from other nations. Ancient Egypt refused to defile itself by contact with other peoples, and its civilization soon perished. The Greeks and Romans, on the other hand, went among strangers, traded with them, learned from them, made leagues of friendship with them, and thus developed a civilization that became the inheritance of all succeeding ages. The states of Europe, which were built upon the ruins of the Roman Empire, could not live wholly to themselves. In spiritual matters they were one. Their universities were places whither *all* might re-

pair, and students from England found their way to Salerno, and scholars from Italy wandered to Oxford. Their commerce caused cities as far apart as Riga and London to unite for mutual protection. Above all, their incessant wars made a policy of seclusion impossible.

Out of this intercourse between the countries of Europe there gradually came into existence a body of rules which states, in their dealings with one another, recognized as binding. In modern times these rules have received the name of international law. We may, therefore, define international law as that set of rules which, having received the acceptance of civilized states, determines the conduct of such states in their dealings with one another. A few of the most important of these rules are:

(1) A state must protect the aliens within its borders from violence to person and property.

(2) Ambassadors and ministers are exempt from arrest and their persons are sacred. The buildings they occupy are extra-territorial.

(3) The high seas must be regarded as belonging to no nation.

(4) The territory of a maritime state must be regarded as including the sea to the distance of three miles along the coast.

(5) A state is sovereign in its own territory and must be permitted to manage its internal affairs in its own way.

(6) A neutral state (one not engaged in war) must prohibit belligerent operations within its territory.

(7) Property taken in warfare belongs to the state, not to the individual captor.

(8) A belligerent may station ships at the ports of an enemy and forbid the egress and ingress of neutral vessels. (Blockade.)

(9) An enemy's goods upon a neutral vessel must be spared unless the goods are "contraband of war."

(10) If possible, enemies must be taken prisoners rather than killed.

(11) Non-combatants and private property are privileged.

(12) Weapons causing needless pain are not to be used.

The above rules are not positive laws, for they have not emanated from a legislative source. They have sprung from centuries of custom, from numerous agreements between nation and nation, and from the moral judgment of mankind. A rule of international law does not have the sanction of a state behind it, but it has a sanction which is very strong: it has the compelling power of the public opinion of the world. If a state should refuse to obey one of the laws of nations it would have to face the protest and indignation of the civilized globe, and if it should be persistent in its refusal it would be "thrown out of the pale of civilized comity, just as you and I would be expelled from the social pale if we offended against the unwritten law of society."

Ambassadors and Ministers. The international affairs of a state are conducted by its diplomatic representatives, of whom the *ambassador* is the highest in rank. The ambassador represents the *person* of the executive of the country from which he comes, and for this reason he receives the highest personal respect and consideration. A *minister*, who is next to an ambassador in rank, represents the government from which he comes, but not the personality of the executive. In foreign courts an ambassador, being a personal representative of a ruler, is admitted to an audience with officials before a minister. For a long time a minister was the highest diplomatic representative of the United States; but when it was found that, under the rules of precedence in favor of ambassadors, a minister of the United States was sometimes kept waiting for an official audience while the ambassador of some petty kingdom was being received, Congress (in 1893) created the rank of ambassador. In about fifteen of the principal countries of the world the United States

is represented by ambassadors. In countries where we are not thus represented we have ministers.

Ambassadors and ministers, their property and their households, are exempt from the laws of the country to which they are accredited. The residence of a foreign minister is, according to international law, a little patch of territory under the dominion of the country that the minister represents. If a Chinese minister at Washington should commit a crime, Chinese and not American authorities must try the case and administer the punishment. If a case should arise where a judicial decision affecting diplomatic agents is necessary, it must be taken directly to the Supreme Court, no matter how trivial it might be (110).

The duties of a diplomatic representative depend upon the powers that his government has conferred upon him and upon the relations that exist between his government and the one to which he is sent. In general, he represents and defends the interests of his country. He keeps the home government informed upon topics of public interest especially upon political topics; but he must not interfere in any way with the politics of the country in which he resides. When a treaty is to be made, the ambassador (or minister) usually serves as the channel of negotiation. This is true also when there is a diplomatic controversy that is the subject of diplomatic adjustment.

Consuls. In addition to its purely diplomatic representatives, nearly every nation maintains in foreign countries agents known as consuls. A *consul* is a business agent of a government, sent to a seaport or inland city to look after the welfare of citizens of his country. He does not represent a government, he is not a diplomatic agent, and he does not enjoy the honors and immunities of a minister. Sometimes a *consul-general* is appointed to supervise all the consuls in the country to which he is sent.

The first duty of a consul is to aid his countrymen in

securing commercial and legal rights. Among his other duties are the following: He places the consular seal upon official acts of the foreign government. He certifies to marriages, births, and deaths among his countrymen in his consular district. He certifies invoices. He administers on the personal property of deceased persons, when there is no representative at hand. He is by treaty frequently made the legal representative of the non-resident heirs of a deceased countryman. A consul receives applications for passports, and, when specifically authorized to do so, grants them. He also grants passports in the absence of the regular diplomatic representatives.

Still another function of the consul is to aid in the extension of our foreign trade. It is his duty to study in a special way the industrial conditions existing in his consular district. He must learn what his district needs in the way of materials and manufactured articles, and must investigate such subjects as tariffs, commercial transactions, navigation, manufacturing industries, and report to the government at Washington the result of his investigations.

The President the Head of Foreign Affairs. In international matters the President has very large powers of control. He appoints all ambassadors, ministers, consuls, and other representatives and agents accredited to foreign countries. Such appointments, however, must be confirmed by the Senate (96). Where an international issue is involved, the President is the spokesman for the nation. He commonly acts, however, through the Secretary of State, who is the titular head of foreign affairs. Through the Secretary of State, the President receives the ambassadors and ministers of other countries upon their arrival in Washington (102). In case a foreign diplomatic officer should abuse his privilege as such, the President would either request his recall or send him out of the country.

Treaties. When two or more nations are at war and desire peace, or if in times of peace their commercial systems or

commercial relations require adjustment, or if their boundaries need to be defined, they may accomplish any of these objects by entering into a solemn compact, which usually takes the form of a treaty. A treaty, when concluded and ratified by the governments of the signatory powers, becomes the law for all the states entering into the compact. A treaty concluded by the federal government is the supreme law of the land (126), and any State law in conflict with a treaty that is constitutional is null and void. Since a treaty is simply a law, Congress may repeal a treaty by passing a law contrary to its provisions, or an existing law may be repealed by the terms of a new treaty. A treaty that is contrary to the Constitution is void.


If a citizen violates a treaty his government will punish him as a violator of a law; but suppose the state itself should violate one of its treaties, is there a power to punish the state? There is no power but the sword of the aggrieved country. The violation of treaty obligations is universally regarded as a just cause of war. But suppose a powerful state violates a compact that it has made with a puny state? In such a case punishment through war is out of the question, and the weak state must rely upon the natural operation of the law of nations. "In the eye of international law treaties are made to be kept," and if a powerful nation persistently and perversely breaks its treaties it will incur the hostility of its neighbors, and sooner or later these will combine and force it to abide by the rules of international law.

The President, acting through the Secretary of State and diplomatic agents, negotiates treaties with foreign powers. After a treaty has been framed, if it meets with the approval of the President it is sent to the Senate, where it must be ratified by a two-thirds vote (95). If it is successful in the Senate it is sent to the foreign government for ratification. When it has been ratified by the foreign

This Convention shall be
ratified on both sides in due form,
and the ratifications exchanged
in the space of six months, or sooner
if possible.

In faith whereof the
respective plenipotentiaries have
signed the above articles both in
the French and English Languages,
and they have thereto affixed their
seals; declaring nevertheless that the
signing in the two Languages shall
not be brought into precedent, nor
in any way operate to the prejudice
of either party.


Done at Paris the eighth
day of Vendémiaire of the ninth
year of the French Republic, the
thirtieth day of September, Anno
Domini Eighteen Hundred.



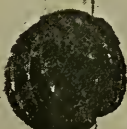
J. B. B. B. B.




W. W. W.



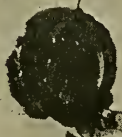
C. C. C.



M. M. M.



A. A. A.



B. B. B.

PORTION OF A TREATY BETWEEN FRANCE AND UNITED
STATES SHOWING SEALS AND SIGNATURES

power the treaty is law for all the states whose governments have signed it.

Suppose the President and the Senate should conclude a treaty that required an outlay of money, would their action bind the House of Representatives? This question arose in 1794, when an appropriation was needed for carrying Jay's Treaty into effect. The House voted the money, but passed a resolution declaring its right to deliberate upon any regulation of a treaty that was placed by the Constitution under its control. Treaties requiring money for their execution have been concluded again and again, and the House has always made the necessary appropriation. It has never, however, acknowledged its obligation to do so.

Arbitration. A treaty provides for the peaceful intercourse of two or more nations in the future. How shall questions and disputes arising out of past transactions be settled? One nation has wounded the pride of another, or has trespassed upon its boundaries, or damaged its commerce, or maltreated its citizens: how shall the injured nations find redress without declaring war? Nations that are capable of a humane and enlightened policy may find a peaceful exit from the most exasperating situations: they may submit their differences to a court of *arbitration*, just as private citizens often submit their differences to arbitration in order to avoid a battle in the courts of law.

Nations wishing to settle a dispute by arbitration enter into a preliminary treaty. They agree upon a method of selecting the members of the arbitration board, appoint a time and place for the meeting of the board, and define precisely the question to be settled. The arbitrators, like impartial judges, listen to the claims of the several states, investigate and weigh the facts pertaining to the case, and render a decision in accordance with the facts and the principles of justice. When the decision of a board of ar-

bitration has been fairly obtained, all the nations affected by it are under the most solemn obligations to acquiesce in it.

The Peace Treaties. In recent years many international disputes have been settled by arbitration and in submitting such disputes to boards of arbitration the United States has set a good example to other nations. In 1914 the federal government entered upon a policy of averting war by negotiating with nations treaties designed to assure a period of investigation and inquiry into the nature of disputes before the outbreak of hostilities. In these treaties the high contracting parties agree that all disputes between them of every nature whatsoever which diplomacy shall fail to adjust shall be submitted for investigation and report to an international commission and they agree not to declare war or begin hostilities during such investigation and report. Each of the two countries names one member from among its own citizens and one from an outside country. A fifth member is chosen by the two governments by common agreement. An investigation by the commission may occupy an entire year, but no longer time, unless the two governments agree to extend the period. The two governments may deal as they choose with the report of the commission, neither government being bound in any way.

The League of Nations. In 1919 several of the belligerent states that had been engaged in the war against the Central Powers, together with some of the neutral nations, entered into a covenant forming a *League of Nations*, to be recognized as a central body interested in coördinating and assisting international activities generally. The League acts through an assembly comprising not more than three representatives of each of the member states, and a council comprising one representative of each of the great powers having membership in the League. In the assembly, and also in the council, each state has only one vote. Either

the council or the assembly can deal with any matter that is of international interest or that threatens the peace of the world. Except in certain specified cases, the decision of both bodies must be unanimous.

The member states of the League agree: (*a*) to reduce their armaments, plans for the reduction being suggested by the council, but only adopted with the consent of the states themselves; (*b*) to exchange full information of their existing armies and their naval and military programs; (*c*) to respect each others' territory and personal independence and guarantee them against foreign aggression; (*d*) to submit all international disputes either to arbitration or to inquiry by the council, refraining from going to war till three months after an award of the court of arbitration or a unanimous recommendation of the council has been made, and even then not to go to war with a state that accepts the award or the recommendation; (*e*) to regard a state that has broken the covenant as having committed an act of war against the League, and to break off all economic and other relations with it; and if force is to be applied, the council recommends what amount shall be supplied by the several governments concerned; (*f*) not to consider any treaty binding till it has been communicated to the League; to admit the right of the assembly to advise the reconsideration of treaties; and to be bound by no obligations inconsistent with the covenants. The covenant does not affect the validity of regional understandings like the Monroe Doctrine. A state that breaks its agreements may be expelled from the League by the council.

The League accepts certain responsibilities with regard to labor conditions; enunciates the doctrine that human labor is something more than a mere commodity or article of commerce; declares that an eight-hour day should be the standard aimed at; and subscribes to the principle that men and women should receive the same pay for the same service.

The permanent meeting-place of the League is at Geneva,

where there is established a permanent secretariat under a secretary-general.

The League of Nations was founded in order to promote international coöperation and to secure peace. It proposes to organize the nations of the world for peace, and to make a war of conquest impossible by uniting all nations against the offender., It establishes machinery for settling disputes by arbitration, and provides for friendly methods of adjusting disputes when arbitration is not agreed to.

QUESTIONS ON THE TEXT

1. Where is power in respect to foreign affairs lodged? Define international law. State some of the most important of the laws of nations. How are the laws of nations enforced?

2. What is the difference between an ambassador and a minister? What is the legal position of an ambassador resident in a foreign country?

3. What are the duties of an ambassador or minister?

4. What is a consul? a consul-general? What are the duties of a consul?

5. How do the diplomatic representatives of the United States receive their positions?

6. What is a treaty? How are treaties made? How are they enforced?

7. What is the attitude of Congress respecting treaties that call for the outlay of money?

8. What are the duties of a court of arbitration?

9. Explain the Peace Treaties.

10. Give an account of the organization and provisions of the League of Nations.

SUGGESTIVE QUESTIONS AND EXERCISES

1. What is a *chargé d'affaires*? an envoy extraordinary?

2. Of the international rules mentioned in the text, state one (if there is such a one) that is contrary to justice; one that is contrary to the interests of mankind; one that is contrary to natural law.

3. Upon what occasion and for what causes have ministers of foreign countries been requested to leave the United States?

4. Could the decisions of the League of Nations be enforced if all the nations should disarm?

5. What influences are now at work tending to bring about universal peace? What influences are at work tending to destroy peace?

6. Give an account of the Monroe Doctrine.

7. A secretary of the British ambassador was arrested, brought before the judge of a town court, and fined for running an automobile too fast: did the judge have the right to impose the fine?

8. What is the difference between arbitration and mediation, as these terms are used in the settlement of international disputes?

TOPICS FOR SPECIAL WORK

1. The Part of the House in Treaty Making: Johnson, 197-205.
2. The President's Initiative in Determining Foreign Policy: Johnson, 393-404.
3. The President and the Treaty-Making Power: Munro, 111-112.
4. Treaties and International Law: Gettell, 528.
5. Diplomacy: Gettell, 229-234.

XXXIII

TAXATION

We come now to the function of taxation, or the orderly collection of revenue for the support of government. An adequate study of the taxing function requires a consideration of the following topics: (1) taxation in its general aspects; (2) national taxation; (3) State and local taxation; and (4) public debt. In this chapter we shall dispose of the first of these topics.

Cost of Government. The importance of the subject of taxation becomes apparent when we regard the cost of government in the United States. This cost is necessarily very heavy, for there are three highly organized governments to be supported: the federal government with its army and navy and courts of law and high officials and hundreds of thousands of employees: the State governments with their numerous departments; the local governments with their school systems, charitable institutions, highway improvements, and police and sanitary services. The total annual expenditures of all these governments, federal, State, and local, amount to more than \$6,000,000,000. This tremendous sum is nearly one tenth of the combined annual earnings of every man, woman, and child in the United States. The people, therefore, contribute to government in a year considerably more than they earn in a month.

Taxation Defined. We have already learned that in America it is a cardinal principle that government must receive its revenue through the consent of the legislature (p. 26). When the legislature makes a general call upon the citizens for contributions for the support of govern-

ment, it is said to tax them. When the levy or call is properly made, the contribution is compulsory and can not be escaped. A *tax*, therefore, may be defined as an enforced contribution of money levied by a legislative body on persons, property, or income, for the support of government.

Principles upon Which Taxes Are Levied. Four rules, or maxims, have been laid down for the guidance of the lawmaker in matters of taxation. They are as follows:

I. *Equality*. Citizens should contribute toward the support of government as nearly as possible in proportion to their respective abilities.

II. *Certainty*. The tax that each individual is bound to pay ought to be certain and not arbitrary. The time of payment, the manner of payment, the quantity to be paid, ought all to be clear and plain to the contributor and to every other person.

III. *Convenience*. Every tax ought to be levied at the time or in the manner in which it is most likely to be convenient to the contributor to pay it.

IV. *Economy*. Every tax ought to be so contrived as both to take out and keep out of the pockets of the people as little as possible over and above what it brings into the public treasury.

The above maxims were stated by Adam Smith (1776), and they have acquired almost universal authority. Legislators always keep them in mind, and follow them with more or less fidelity. Sometimes, however, in order to avoid the resentment or opposition of the people, they ignore the maxims and follow the rule of expediency. In accordance with the policy of a celebrated Frenchman (Colbert), they so pluck the goose (the people) as to produce the largest amount of feathers with the least possible amount of squawking.

Different Kinds of Taxes. For the sake of system, legislators divide property and other subjects of taxation into

classes, and name the tax according to the class upon which it is levied. The kinds of taxes that are usually collected are the following:

I. *Property Tax*. Property is the thing universally taxed. If any property escapes taxation, it is not, as a rule, the fault of the law, for the law-makers attempt to tax almost everything upon which a levy can possibly be made. A general property tax is levied (a) on *real property*, which includes lands or buildings and other things erected upon land; and (b) on *personal property*, which includes such things as household furniture, money, goods, bonds, notes of promise, stocks, mortgages, jewelry, horses, carriages, automobiles, and farming implements.

II. *Income Tax; Inheritance Tax*. The *income tax* is levied upon income from wages or salary, or from profits derived from one's business or profession, or from interest on stocks and bonds. In a few States an inheritance tax is levied on property acquired by inheritance or will. Sometimes this tax is regarded as an income tax, the inheritance or legacy being considered as nothing more than a part of the income secured during the year.

III. *Corporation Tax; Franchise Tax*. The *corporation tax* is levied upon private corporations. It sometimes takes the form of an income tax levied upon the corporation regarded as a person; sometimes it is levied upon the bonds and stocks of the corporation. In a few States it is levied upon the earnings of the corporation.

The *franchise tax* is levied upon a privilege granted by government. When a city council confers upon a corporation the right to operate a trolley line upon a certain street, the *right* conferred is a *franchise*, and upon the value of this right the franchise tax is laid. Though franchises are not material, visible property, they have nevertheless been declared by the Supreme Court of the United States to be property. Sometimes franchises have an enormous value. For example, while the tangible property—the rolling stock, rails, wires, and power-houses—of a trolley

company might be worth only a million dollars, the right to use the street (the franchise) would not be sold, perhaps, for a sum several times as great. Sometimes a corporation is compelled to pay a franchise tax, and in addition a property tax on its material possessions.

IV. *Customs Duties; Excises.* A *customs duty*, or tariff, is a tax levied upon an article imported from a foreign country. In some countries duties are levied upon imported articles. *Excises*, or *internal revenue taxes*, are levied upon goods manufactured within the country. Among the articles that are usually subjected to the excise tax are tobacco, cigars, cigarettes, oleomargarin, and playing cards. Taxes on theater tickets, moving-picture tickets, and railway tickets are also regarded as excises.

V. *Miscellaneous Taxes.* In addition to the taxes thus far described, there are several others, which may be grouped as miscellaneous. Among the miscellaneous taxes are the following: (1) The *poll* or *capitation tax*, which consists of a small sum of money levied as a personal tax; that is, the tax is imposed on the person as a *person*, not as a possessor of property. (2) *License taxes*, which are collected from merchants, peddlers, hack-drivers, showmen, and others for the privilege of transacting business. The license tax resembles the franchise tax. (3) *Fees and special assessments.* These are sums collected by public authority as a partial payment for services rendered by the government. The charge for issuing a marriage certificate is an example of a fee, while a charge made for connecting a private drain with a public sewer is an example of a special assessment. Fees and special assessments are not always taxes, properly so called.

Reforms in Taxation. It is sometimes contended that one's duty in respect to the payment of taxes should be measured, not by ability, but by sacrifice. According to this view, a tax is burdensome, not in proportion to what is paid, but to what is left. To equalize the sacrifice of

taxpayers, a *graduated* or *progressive* tax has been proposed. Under the workings of this tax the rate increases with the amount of property. For example, if A, B, C, and D are worth respectively \$10,000, \$20,000, \$30,000 and \$40,000, a scheme of progressive taxation might impose upon A a rate of one per cent., upon B a rate of two per cent., upon C a rate of three per cent., and upon D a rate of four per cent. D's property is only four times as great as A's, yet it pays sixteen times as much in taxes.

In eighteen States the constitutions provide that taxation shall be in exact proportion to the value of the property taxed. In these States progressive taxation would doubtless be adjudged unconstitutional. The other States are permitted to apply the progressive principle, and many of them do apply it. Congress has levied a progressive inheritance tax and a progressive income tax, and the validity of the progressive principle has been sustained by the Supreme Court of the United States.

Another proposed reform in taxation is the *single tax*. This is a plan for raising all revenues—federal, State, and local—from a single tax imposed on land. According to this plan, men should contribute to the support of government, not in proportion to what they produce or accumulate, but in proportion to the value of the natural opportunities they hold; and it is contended that the land-holder is the great monopolist of natural opportunities. The single tax would be laid upon land as such, and not upon the improvements upon land. The tax upon a vacant lot, provided it were as favorably located, would be as heavy as the tax upon a lot improved by a magnificent structure. The fundamental principle of the single tax is this: The individual should get the advantage of all improvements upon land, while the government (society) should get the advantage of favorable location, and of the increased values that accrue to land in a community that is progressive and that is increasing in population.

QUESTIONS ON THE TEXT

1. What can you say of the cost of government in the United States?
2. What is a tax?
3. State Adam Smith's four maxims of taxation. What was Colbert's maxim of taxation?
4. Name and describe each of the several classes of taxes.
5. Explain the operation of a progressive or graduated tax. What is the single tax plan? What is the fundamental principle of this plan?

SUGGESTIVE QUESTIONS AND EXERCISES

1. Show that taxation played an important part in each of the following events: (a) Wat Tyler's Rebellion; (b) the American Revolution; (c) the French Revolution.
2. Look about you and see what government does for the people; itemize these services and decide whether they are worth the labor of all the people for five weeks in the year.
3. Is it just that all citizens should pay taxes? Do all citizens have to pay taxes? (Do not be too sure of your answer to this question.)
4. For what do people pay taxes most cheerfully?
5. Of the several kinds of taxes mentioned in the text name the one that is easiest to collect; name the one that is easiest to be paid; name the one that is most objectionable.
6. If government imposes an income tax, is it right that incomes below a certain amount should escape the tax? If you think a certain amount should escape taxation, what amount would you suggest?
7. Should the expenses of a Fourth of July celebration be paid out of the public funds?
8. Suppose you own a farm worth \$5,000 and there is a mortgage on it of \$4,000: how much are you worth? On how much should you pay taxes—\$1,000, \$5,000, or \$9,000? If mortgages were taxed—as they frequently are—and the holder of the mortgage on your farm should shift the mortgage tax to you in the form of a higher rate of interest, on how much would you pay taxes?
9. State the evils of parsimony in public expenditures; the evils of extravagance. Which are the more dangerous? Read Prov. xi, 24.
10. Does the constitution of this State declare any general principle in reference to taxation?
11. Is there an income tax in this State? If so, explain its nature and workings.
12. Is it just that a man who owns a little property should be taxed, while the man who receives a large salary and who owns no property should escape taxation?
13. Are there any progressive taxes in this State? If so, give an account of them.

14. Discuss progressive taxation in reference (*a*) to its justice, (*b*) to its expediency, (*c*) to its effect upon fortune-building.
15. What reforms in taxation are needed in this State?

TOPICS FOR SPECIAL WORK

1. Taxation: Carver, 503-513; Thompson, 397-407.
2. Popular Taxation: Dole, 293-318.
3. Municipal Franchises: Kaye, 456-463.
4. The Income Tax: Bullock, 577-582; Munro, 225-226.
5. Direct Taxation: Munro, 224-225.

XXXIV

NATIONAL FINANCE

Having considered the subject of taxation in its general aspects, we pass to the subject of public finance, the science that treats of public expenditures and of the means of securing money to meet them. Since, under our dual system, taxation is a concurrent function (p. 48), exercised with sovereign power by the State as well as by the federal government, and since each government determines its own expenditures, public finance in the United States is resolved into two clearly defined systems—national finance and State finance. In this chapter the subject will be national finance.

Extent of the Federal Taxing Power. Recognizing that revenue is the life-blood of government, the framers of the Constitution gave to Congress an almost unlimited power to tax (44), and at the same time reserved to the States the power of raising their own revenues in their own way in such amounts and for such purposes as they might deem wise and proper. They restricted the taxing power of Congress in only three particulars: they provided (1) that duties and excises must be uniform throughout the United States (45); (2) that direct and capitation taxes must be apportioned among the States according to population (66); and (3) that duties can not be laid on articles exported from any State (67). Excepting only as it is limited by these three provisions, Congress is free to levy any kind of tax it may see fit for any amount it may desire, except that it may not tax the property of a State or the salaries of State officers. Since the adoption of the sixteenth amendment, even the restriction in respect to direct taxes has been partially removed; for under the power given by that amendment Congress may levy an income tax—a direct tax—without apportionment among the

several States and without regard to any census or enumeration (160).

Preparing the National Tax Bill. The Constitution provides that bills for raising national revenue shall originate in the House of Representatives (36). It was the expectation of the framers that this provision would give the House complete control over national revenues and expenditures. "The House of Representatives," said James Madison in the *Federalist*, "can not only refuse, but they alone can propose, the supplies requisite for the support of government. They, in a word, *hold the purse*. . . . This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people for obtaining a redress of any grievance and for carrying into effect every just and salutary measure." But the expectation of the framers was not to be realized: the House has not maintained a mastery over the national finances. For the Constitution provides that in the case of revenue bills, as in other bills, the Senate may propose or concur in amendments (36). By using the power of amendment freely the Senate has come to have great influence in the shaping of the revenue laws. It takes the tax bill that is sent to it from the House, and modifies the measure in whatever way it may desire; and if the two branches come into conflict over the matter the Senate usually wins.

The actual work of preparing the national tax bill is performed by the House committee on ways and means. The task of this committee is stupendous. It must hold sessions for the hearing of the interests that will be affected by proposed schemes of taxation; it must inform itself as to the wishes of the people at large in respect to the kind of taxes that should be levied; it must make estimates of the amount of revenue that may reasonably be expected to accrue from each of the several kinds of taxes that are to be imposed; it must so fix the rates that the largest

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THE COMMITTEE ON WAYS AND MEANS

amount of revenue may be procured with the least opposition on the part of the people; it must prepare a bill calling for an enormous sum of money.

Sources of the National Revenue. When raising the federal revenue Congress avails itself of the resources of the richest nation in the world, and it is permitted to impose almost every kind of tax. The principal taxes collected by the federal government are the income and excise taxes, customs duties, and the inheritance or estate tax.

I. *Federal Income Tax.* Every citizen of the United States, whether residing at home or abroad, is subject to a personal income tax; and every person residing in the United States, though not a citizen thereof, is subject to such a tax. The federal income tax law provides for a normal tax and a surtax. The normal tax is a certain per cent. levied on the whole income in excess of a certain exemption which is allowed. This exemption (1920) is \$2,000 in the case of persons living in the marriage relation, and \$1,000 in the case of unmarried persons. The normal rate is 4 per cent. on the first \$4,000 of net income above the exemption, and 8 per cent. on the remaining net income. The surtax is an additional tax, levied upon increments of income above a certain amount. The rate of the surtax is graduated (p. 270), increasing as the income increases. In the case of some of the very largest incomes the rate of the surtax is so high that it takes more than half of the income.

II. *Excise Taxes.* A very considerable portion of the national revenue is derived from excises (p. 269). Among the articles subject to the excise tax are tobacco, manufactures, automobiles, motorcycles, admission tickets to places of amusement, oleomargarin, and playing cards.

III. *The Tariff.* Another important source of the federal revenue is the tariff. The first Congress established (in 1789) a tariff (p. 269), and all succeeding Con-

gresses have followed its example. Tariff or customs duties are collected by government officials, at ports of entry, from the importers of foreign goods. The duties are *ad valorem* when they are levied at a certain rate per cent. on the money value of the goods at the original place of shipment. They are *specific* when levied on articles according to quantity or number. For example, if the duty on gloves is 40 per cent. *ad valorem*, a box containing six dozen pairs of gloves worth fifteen dollars a dozen produces a tax of thirty-six dollars. If the duty on gloves is *specific*, at eight dollars a dozen, the box of gloves in question produces a tax of forty-eight dollars.

The customs tax is levied upon several hundred articles; but the greater part of the tariff revenues is raised from the manufactures of wool, cotton, silk, iron, copper, and tea, and from sugar, fruit, cigars, drugs, dyes, and chemicals. Many imported articles are admitted free of duty. Among the items on the free list are coffee, tea, books more than twenty years old, raw wool, agricultural implements, sewing-machines, lard, milk, potatoes, and salt.

IV. *Inheritance or Excise Tax.* Still another federal tax is one levied upon inheritances. This tax, known as the estate tax, is levied upon the estates of all decedents leaving property of the value of \$50,000 or more. Like the system on incomes, the estate tax is graduated.

Collection of the National Revenues. The internal revenue—that is, the revenue derived from the income tax, the excises, and the estate tax—is collected under the direction of the Bureau of Internal Revenue, one of the bureaus in the Department of the Treasury. For the purpose of collecting the internal revenue, the country is divided into about sixty-four internal revenue districts, in each of which there is a federal collector of internal revenue, assisted by a corps of deputies. As a rule, the boundaries of the collection districts follow State lines.

In the more populous States there are two or more collection districts.

Customs duties are collected at various ports of entry by United States treasury officials known as collectors of customs. In normal times more than half of all customs duties are collected at the port of New York City. Other ports where the customs collections are considerable in amount are Philadelphia, New Orleans, San Francisco, Savannah, Boston, and Baltimore.

The federal government collects its revenue in an economical manner. The cost of collecting the customs is about 5 per cent. of the amount collected; while the internal revenues are collected at a cost that is only a little more than one half of one per cent. of the amount collected. In the fiscal year ending July, 1919, the internal revenue receipts were close to \$4,000,000,000, while the cost of collecting this vast sum was only about \$20,000,000.

National Expenditures. The laws providing for federal expenditures are usually passed before the matter of revenue is attended to. Private individuals ordinarily estimate their income first and then decide upon expenditures; but governments are accustomed to estimate their expenditures and attend to the matter of income afterward.

The preparation of appropriation bills is a task that absorbs a large part of the energy of Congress. At the opening of every regular session, Congress receives a report from the Secretary of the Treasury containing detailed estimates of the sums necessary for the support of the national government. These estimates are prepared by the heads of the several departments, each stating the amount of money he thinks his department will need in the next fiscal year.¹ These estimates are gathered into a bulky volume, known as the *Book of Estimates*, and are submitted to Congress by the Secretary of the Treasury. But the figures

¹ For the federal government the fiscal or financial year begins on July 1, and extends to July 1 of the following year.

in the *Book of Estimates* are recommendations and nothing more. Not a dollar of the estimates can be raised constitutionally without the consent of Congress (69).

The consideration of the estimated expenditures begins in the House of Representatives, although there is no constitutional reason why such consideration should not begin in the Senate. The recommendations found in the *Book of Estimates* are referred by the Speaker to the proper committees. The preparation of appropriation bills is not concentrated in the hands of any single committee, as is the preparation of revenue bills, but is intrusted to a number of committees. For example, appropriations for the support of the army are prepared by the committee on military affairs; those for the support of the navy, by the committee on naval affairs; those for the support of the post-office, by the committee on post-offices and post roads. In all, about fourteen different appropriation bills are prepared by nine different committees.

The committees virtually control federal expenditures. There is no limitation upon their power of appropriation, except that any appropriation for the support of the army shall not be made for more than two years (56). They take the estimates submitted by the Secretary of the Treasury and do with them as they please. Sometimes they accept them, sometimes they modify them, but often they ignore them altogether. It is their function to prepare bills providing for the expenses of the government; and in the exercise of their duty they are entirely independent of executive authority. Quite often they invite executive officials to assist them and advise them, but they are under no constitutional obligation to do so. Appropriation bills, like all other bills, must run the gauntlet of legislation. They must pass both Houses and receive the signature of the President.

Shall We Have a National Budget? The system of having the estimates made by so many departments and the ap-

appropriations made by so many committees has resulted in a financial procedure that is "haphazard, uncertain, unbusinesslike, and indefensibly wasteful." Then, too, the present system does not provide for the proper adjustment of expenditures and revenue. The departments, bureaus, and boards bombard the committees of Congress for appropriations, in sublime indifference to the fact that they may be asking the taxpayer to assume a burden heavier than he ought to be called upon to bear. "The government of the United States," said the Secretary of the Treasury recently, "is like a private family in which the wife, having charge of the spending part of the family's business, were given *carte blanche* to buy houses, yachts, automobiles, clothing, and food, and to employ servants, as she might find wise; and the husband's sole business were to see that there was money in the bank to meet her checks as they were presented."

To bring order into our national finances and effect economies in expenditures of money, the *budget system* has been proposed. Under the budget plan there would be a full and clear statement of expenditures and revenues; there would be an estimate of the government's needs and also of its financial resources; and there would be an opportunity to fix responsibility both in the matter of making the estimates and in the matter of making the appropriations. "There should be," said President Wilson, urging the adoption of the budget system, "one single authority responsible for the making of all appropriations, and appropriations should be made, not independently of each other, but with reference to one single comprehensive plan of expenditure properly related to the nation's income." The burden of preparing the budget would rest upon some agency of the executive department, and when prepared it would be submitted to a *single committee* of each branch of Congress. The proposed budget would be approved or amended by the committee, but no new item of appropriation could find its way into the budget, and no existing

item could be increased, except by a two-thirds vote of the committee.

In 1920 a bill providing for a national budget was passed by Congress but was vetoed by the President on the ground that certain provisions of the measure encroached upon the power of the Executive. Notwithstanding this setback, the outlook for a budgetary system continued to be bright.

QUESTIONS ON THE TEXT

1. What are the powers of the federal government and what are the powers of the State in reference to taxation? What three restrictions does the legislature place upon the taxing power of Congress?
2. Give an account of the preparation of the national tax bills. Describe the task of the committee on ways and means.
3. Name the several sources of the national revenue, and give an account of each of the leading federal taxes.
4. Describe the methods of collecting the federal taxes.
5. Give an account of the preparation of bills for national expenditures.
6. Why is it desirable that we should have a national budget?

SUGGESTIVE QUESTIONS AND EXERCISES

1. Estimate how much this State contributes to the support of the federal government, assuming that it contributes according to its population. Is this sum greater or less than the amount raised for the purposes of the State government?
2. Do the people who live at a port of entry pay all the taxes that are collected at the custom-house?
3. An orator wishing to illustrate the generosity and patriotism of his people pointed out the fact that three times as much of the internal revenue tax was paid in his State as in any other State. Point out the fallacy of the illustration.
4. Collect all the provisions of the Constitution that bear on the subject of taxation. Compare the Constitution with the Articles of Confederation in respect to taxation.
5. Which would you prefer to pay, direct or indirect taxes?
6. What is meant by smuggling? What articles are easily smuggled? Should taxes on these articles be light or heavy?
7. Name the principal ports of entry in the United States. What is done with the money that is collected at these ports?
8. How much per voter does it cost to support the national government?
9. Is the money you pay for a postage-stamp a tax?
10. Of the articles mentioned in the text as being taxed, are there any that should go on the free list?

11. Under the Constitution can the Senate originate a bill to revise the tariff?

12. What is the difference between an appropriation bill and a revenue bill?

13. *Receipts and Expenditures of the National Government.* In the fiscal year ending June 30, 1918, the receipts and expenditures of the National Government were as follows:

RECEIPTS

Customs	\$ 183,428,624
Income and excess-profits taxes	2,600,762,734
Miscellaneous taxes	1,239,468,260
Sales of public lands	1,404,705
Miscellaneous receipts	622,539,527
Public Debt Receipts	29,075,976,515
Postal Revenue Receipts	364,847,126

Total Receipts\$34,088,427,491

EXPENDITURES

Legislative	\$ 17,090,106
Executive proper	17,467,352
State Department	20,766,400
Treasury Department	227,277,657
War Department	8,995,880,266
Postal Service	362,504,274
Navy Department	2,002,310,785
Interior Department	288,285,627
Department of Justice	15,717,022
Department of Agriculture	39,246,454
Department of Commerce	15,589,514
Department of Labor	12,942,558
U. S. Shipping Board	1,820,606,870
Federal control of transportation ..	358,795,274
War finance cooperation	302,621,846
Food and Fuel Administrations	87,338,207
Independent office and Commissions	75,375,809
District of Columbia	16,014,105
Interest on Public Debt	619,215,569
Public Debt expenditures	16,326,506,560
Purchase of obligations of foreign governments	3,479,255,265

Total Expenditures\$34,100,807,520

TOPICS FOR SPECIAL WORK

1. Congress and the Treasury Department: Johnson, 178-187.
2. Limitations of the Power of Congress to Tax: Munro, 221-227.
3. Revenue Bills: Beard, 361-365.
4. Budget System: Munro, 309-310.

XXXV

STATE FINANCE

From the subject of national finance we pass to a consideration of State and local finance. How does the State raise money for the support of the State government? How are the expenditures of the State determined? In what way are the expenses of the local governments determined, and how are they met?

Taxing Power of the State. Since one of the chief objects of the Constitution was to secure easy trade relations between the States, taxation on exports and imports was prohibited to the States and placed under the control of Congress (74). With the view of further protecting the freedom of commerce, the Constitution forbids any State to levy without the consent of Congress any tonnage duty, that is, any tax on the carrying capacity of a vessel (76)—a prohibition that applies to all instruments of commerce. A State can not impose a tax on “tonnage passing through, from, or to a State or foreign country, be it on railway, canal, river, or otherwise.” Moreover, since “the power to tax is the power to destroy,” a State can not tax the agencies by means of which the federal government is enabled to exercise its functions: it can not tax the bonds of the federal government, or its property, such as its light-houses and post-office buildings, or the salaries of its officers, or the public money in its treasuries, or the metals in its mints. Aside from these restrictions, the State is free to tax all taxable objects within its borders.

Authority for State and Local Expenditures. Although they may differ somewhat in detail, the financial systems of the States are quite uniform in their workings. Au-

thority for all public expenditures within each State flows, directly or indirectly, from its constitution and its legislature. Expenses of the State government are estimated and levied directly by the legislature, and are usually comparatively light. In some States the constitution limits the amount that can be levied in one year.

But it is not the State government that calls for the expenditure of the largest sums. Most of the actual functions of government that lie within the scope of State authority are performed by the localities—by cities, counties, villages, townships. The expenses of the local governments, therefore, are much heavier than those of the State. The local governments spend about five times as much as is spent by the State. New York City alone spends annually a sum almost equal to three fourths of the combined expenses of all the State governments.

In matters of taxation, cities and counties and other minor civil divisions are strictly under the control of the State government, and the limits of their power to tax are usually defined by the higher authority. In some States the limitations are fixed by the legislature, in others by the constitution. In about one third of the States counties are not allowed to tax beyond a certain per cent. of the assessed valuation of property. Municipalities, in the matter of taxation, are often restricted by the terms of their charters. Taking the country over, however, the localities are quite free to tax themselves as they see fit. The most that the legislature or the constitution undertakes to do is to throw around the local taxing power such safeguards as will prevent bankruptcy.

The expenses of local government are met by taxation imposed by the minor legislative bodies, by the municipal council (or commission) or the board of county commissioners—a legislative body as far as taxation is concerned—or the town-meeting, or the township supervisors or trustees. Since the greater part of the sum paid for taxes is levied by local authority with the almost direct sanction of the

voters themselves, it can almost be said that the people *are not taxed*—for they really tax themselves.

Taxation in the State. It has been seen that federal taxation is a very simple matter. Congress determines the tariff and excise rates and the rates of the income tax, and the Treasury Department places its collectors of customs at the various seaports to collect the duties on foreign goods as they come into the harbors, and sends its collectors of internal revenue to individuals and to corporations to collect the income tax and into the tobacco establishments to collect the excises on tobacco as it is manufactured—and that is substantially the story of federal taxation. The account of State taxation must be somewhat more complex, for it involves the consideration of more processes and more governmental machinery.

I. *The General Property Tax.* In the State the general property tax is the great source of revenue. This tax reaches all property, real and personal, located within the boundaries of the State. When the owner of property resides outside the State, he does not for that reason escape taxation.

In the payment of the general property tax the taxpayer should bear a burden proportioned to his wealth; all the property of every person should contribute according to its true value. This, as has been seen, is a fundamental principle of taxation. In order to realize this principle of equality and justice when levying the general property tax, the government must set in motion an elaborate taxing machinery, and must carefully control all the processes of taxation. Its officers must discover all the property of every person, and must place thereon a fair valuation; it must provide agencies for correcting unjust and unfair valuations; it must have officers for collecting the taxes and means of enforcing payment; finally, it must, in the name of public policy, exempt certain classes of property from the payment of taxes.

An account of the operation of the general property tax includes the consideration of the following topics: (1) Assessment; (2) Equalization; (3) Collection; (4) Delinquency; (5) Exemption.

(1) *Assessment.* The administration of the general property tax begins with the placing of a valuation upon all property, real and personal. This official valuation is called an assessment. The officers of assessment, known as assessors, in some States are elected by the people; in other States they receive their office by appointment.

The assessors of a local division—of a city, or town, or township¹—after personally inspecting the property of the taxpayer and making a series of inquiries in reference to it, place a value upon it. This is done in respect to the property of every taxpayer. The sum of all the valuations of property thus made is the assessment of the local division. The tax rate of the local division is found by dividing the expenditures determined upon by the assessment. If the assessment is \$50,000,000, and the expenses of the local government are \$500,000, dollars, the tax rate is one hundredth or one per cent. Every tax-payer, therefore, must pay local taxes amounting to one per cent. of the assessed valuation of his property.

But this local division, even if it be a large city, is probably located in a county in which there are additional expenses of county government. The local division must bear its share of these expenses, and this will increase the rate of the taxpayer. The county rate is found by dividing the county expenditures by the county assessment, which is the sum of the assessments of all the local divisions of the county.² Again, the county as a part of the State must contribute its share to the support of the general State government. The State rate³ is found by dividing

¹ In some States the county is the smallest local division for purposes of assessment.

² The valuation put upon property in the local assessment is usually regarded as its proper valuation for purposes of county and State taxation.

³ In several States there is no general property tax for State purposes, the revenue for the general State government being obtained chiefly from corporation taxes and from licenses.

the State expenditures by the State assessment (the sum of the county assessments). This rate, added to the local and county rates, gives the tax rate of the local taxpayer.

(2) *Equalization*. In levying the general property tax the individual assessments must be just. If A's house is assessed at one thousand dollars when it is worth two thousand dollars, and B's house is assessed at three thousand dollars when it is worth two thousand dollars, B will pay three times as much in taxes as A, whereas in justice he ought to pay only as much as A. In most of the States means are provided for correcting unfair assessments. Very often there is a local board of equalization to which taxpayers may appeal when they think they have not been treated fairly at the hands of the assessors. Sometimes such complaints are taken to an appeal tax court, or to the board of county commissioners. When the board of equalization or other body to which appeal is made finds that there has been an unjust assessment, it orders a new one made.

Frequently evils arise from uneven assessments among localities. For example, in one county the assessors may place the valuation of all property too low, while in another county the property may be assessed at its true value. As far as the county tax is concerned, undervaluation, if uniform as among the individuals of the county, works no harm; but it works harm in connection with the State tax, for the taxpayers of a county in which there is under-assessment contribute less than their just share to the State expenses. State boards of equalization have been established in many States to correct evils growing out of uneven assessments among localities. These State boards, however, have not in all cases been able to apply a remedy for wrongs occasioned by improper local assessments.

Where all the local divisions in a State assess property according to the same principle, and assess it honestly, there is no trouble; but where original local assessments are made in a haphazard manner, or with a view to escap-

ing just burdens, the whole taxing system of the State is vitiated, and a remedy is almost impossible. The goodness or badness of the administration of the general property tax, therefore, depends upon the work of the local assessors.

(3) *Collection.* The general property tax is gathered by local officers. Usually tax-collectors are elected or appointed for the sole purpose of collecting taxes; but in some States the collection is made by a constable or selectman, township supervisor, or other local officer. In the performance of his duties the collector is guided solely by the tax list prepared by the assessors. The same collector usually collects State, county, and local taxes. When this is the case a distribution is made, the local division, the county, and the State each receiving its proper share.

(4) *Delinquency.* When the taxpayer fails to pay his tax bill promptly, the property upon which the tax is levied is said to be delinquent, and is liable to be sold to satisfy the claim. If the property sold for taxes should bring more than the amount of the tax, the excess is given to the owner. Moreover, the owner usually has the right to buy back his property at the price for which it is sold. This right of redemption, however, continues for only a limited period, usually two years.

(5) *Exemption.* State constitutions almost always specify the kinds of property that may be exempt from taxation, and the legislature is usually forbidden to exempt any other kind. A clause from the constitution of Minnesota will illustrate the practice in reference to exemption: "Public burying grounds, public school-houses, public hospitals, academies, colleges, universities, and all seminaries of learning, all churches, church property used for religious purposes, and houses of worship, institutions of purely public charity, public property used for public purposes, and personal property to an amount not exceeding in value two hundred dollars for each individual, shall by general laws be exempt from taxation." Many States are careful to exempt household furniture to a certain value.

II. *Miscellaneous Taxes.* In the raising of revenues the State and the local governments are by no means confined to the general property tax. Large sums are realized from fees, licenses, and franchises. The opportunity for revenue in the way of licenses is seen in the following clause of one of the State constitutions: "The legislature shall have power to tax peddlers, auctioneers, brokers, bankers, commission merchants, showmen, jugglers, innkeepers, . . . venders of patents, in such manner as it shall direct by general law, uniform as to the class upon which it operates." The franchise tax levied upon the franchises (p. 268) of railroads and other corporations is also proving to be a source of much revenue in some States.

Incomes are taxed in a few States; inheritances in many. Poll or capitation taxes are very common, and in some States yield considerable revenue. In cities large sums are collected as water rents and special assessments for the payment (in whole or in part) for street improvements to abutting property. Water rents and special assessments, however, are not in the strict sense taxes; they are rather payments for social services which the government has chosen to perform. Fines also add materially to the public funds, but they can in no sense be regarded as taxes.

State and City Budgets. In most of the States appropriations for the support of the State government are under the exclusive control of the legislature. Where this is true the legislative leaders are the undisputed masters of State finance. In about half the States, however, in order to remedy the evils of indiscriminate and unsystematic action by the legislature, the budget system has been introduced; that is, the governor, or some administrative board, submits to the legislature an itemized statement of the financial needs of all the State departments. This statement is used as a basis for legislative action when appropriations are being made. In a few States an item of the budget may be stricken out or decreased by the legislature,

but may not be increased by that body. Of course, the power of the legislature could not be restricted in this manner unless with its own consent or under the authority of the State constitution. In Maryland the constitution expressly restricts the legislature in respect to its power when dealing with the items of the budget.

In cities the tendency toward budgetary procedure is also strong. Under many municipal charters financial management has virtually passed from the council to a board of estimates, of which the mayor is a member and over which he may exert a controlling influence if he chooses to do so, for he usually appoints a majority of the members. This board of estimates prepares the city budget and submits it to the city council or commission. The council may lower the estimates, but it can not exceed them. In New York City the budget is made by a board composed of the mayor, the city comptroller, the president of the board of aldermen, and the presidents of the five boroughs. In some of the cities of Ohio the mayor makes up the budget from estimates prepared by the several municipal departments. The council may strike out a particular item of the budget or decrease an item, but it can not increase the total of the budget.

QUESTIONS ON THE TEXT

1. What restrictions are placed upon the power of the State to tax?
2. By what authority are taxes levied for the support of the State government? Compare the expenditures of the State government with the expenditures of the local governments. By what authority are taxes levied for the support of local government?
3. Explain the work of assessors. What is the assessment? How is the local tax rate determined? the county rate? the State rate?
4. What is the duty of the board of equalization? What evil arises from uneven assessments?
5. What is done with delinquent property?
6. What kinds of property are exempt from taxation?
7. Name several kinds of taxes besides the general property tax that are accustomed to be levied in the State.
8. Give an account of State budgets; of city budgets.

SUGGESTIVE QUESTIONS AND EXERCISES

1. "The power to tax is the power to destroy." Why would it not be wise for the federal government to have the power to tax the property of the State and the salaries of its officers?

2. What are the general provisions of the constitution of this State in reference to taxation? What restrictions are placed upon the taxing power of counties? of townships? of cities?

3. Does the right to vote in this State depend in any way upon the payment of any kind of taxes? Ought it so to depend? Do all who pay taxes in this State have a right to vote?

4. Of the several kinds of taxes mentioned in the text, which are levied in this State?

5. Are mortgages taxed in this State? If so, who pays this tax? Are incomes taxed in this State? If so, who pays this tax?

6. What are the several kinds of property exempt from taxation in this State? (See the constitution.)

7. If you owed a man a just debt and saw an opportunity of escaping payment, would you avail yourself of the opportunity? If you owned property that should pay taxes and saw an opportunity to hide the property from the assessors and thus escape the payment of the tax, would you avail yourself of the opportunity?

8. If a man should send you a bill for three dollars when you knew you owed him five dollars, would you call his attention to the mistake? If the assessor should assess your house at \$5,000 when it is worth \$3,000, what would you do? If he should assess it at \$3,000 when it is worth \$5,000, what would you do? Do you believe men are disposed to deal as honestly with the government as they are with their neighbors?

9. What is the tax rate of this municipality? of this county? of this State?

10. Under what circumstances would there be no grumbling about taxes?

11. Is there a State tax commission in this State? If so, give an account of its organization and its powers.

12. What penalty is imposed in this State in case of delinquent taxes?

13. What is the assessed valuation of the property of this city? What is the rate of taxation?

14. Is any graduated or progressive tax in operation in this State?

15. Secure a copy of your State budget and prepare a statement similar to the one found on page 282, showing what proportion of the State funds are spent for education, for highways, for charitable institutions, etc.

TOPICS FOR SPECIAL WORK

1. Budget Making: Bruère, 175-201.
2. State Taxation: Reinsch, 293-325.
3. Taxation in the States: Bullock, 559-587.
4. State Budget System: Munro, 466-469.

17 of 18
National Finance
Public Debt

XXXVI

PUBLIC DEBT

The subject of public finance, as we have learned (p. 266), includes the subject of public debt. How does the government borrow money? To what extent have our several governments contracted debts? What provisions are made for paying the public debt?

Public Debt a Necessity. A most important topic of public finance is *public debt*. The necessity of incurring debt in the conduct of public affairs is perhaps stronger than it is in the management of private business. Governments can not accumulate money; they must confine taxation to such amounts as are necessary to meet expenses for the current year. At the end of the fiscal year the treasury is supposed to be virtually empty. This is unquestionably the correct policy. A government is sorely tempted to be extravagant when it has more money on hand than it needs. It has been said with some truth that the way to keep governments pure is to keep them poor.

Since it can not save for a rainy day, when the rainy day comes and large sums of money must be had at once, government must borrow. Increased taxation can not be relied upon to supply the necessary revenue. In 1863 the federal government used its taxing power to the utmost to raise the money for the support of its war operations, yet it could not collect by taxation one sixth of what it spent during the year. More than five sixths of its expenses had to be met by borrowing. Also, in the war with Germany, the sums that we borrowed vastly exceeded those raised by taxation.

How a Government Borrows Money. When a government wishes to raise money by borrowing, it usually sells its *bonds* to *voluntary* buyers. A government bond resem-

bles a promissory note given by an individual who borrows money. In the bond are stated the amount owed by the government, the date of payment, and the rate of interest. A bond may be for a small sum or for many thousands of dollars. The amount received by a government for a bond depends upon (1) the confidence that lenders have in the government's ability to redeem the bond, that is, to pay the debt; (2) the rate of interest offered; and (3) the length of time the debt is to run. Sometimes the conditions of borrowing are so favorable that a government receives for a bond a sum considerably greater than the face value of the debt.

Besides raising money by issuing bonds, the national government issued (in 1862-63) paper money, declaring this to be "lawful money and a legal tender in payment of all debts, public and private, except duties on imports and interest on bonds and notes of the United States." This money was printed by the government and paid out to its creditors. Those who received it could compel others to take it in payment of debts. Money secured in this way may be regarded as a *forced* loan.

National Debt. The Constitution gives to Congress unlimited power to borrow money (46); it imposes no restriction as to time, or amount, or security, or interest. Congress may not, however, pay any debt incurred in aid of rebellion against the United States (157). The debts contracted by the United States under the confederation were made valid as against the new government (125). Alexander Hamilton, the first Secretary of the Treasury, and perhaps the greatest financier in our history, wished to make the credit of the national government so good that no one would ever hesitate to lend it money. He urged Congress to pay not only the regularly contracted debt of the confederation (foreign \$12,000,000; domestic, \$42,000,000), but also to assume the war debt (\$21,000,000) incurred by the States during the War of the Revolution.

After a long debate the policy of assumption was adopted, and the new government began its career with a debt of about \$75,000,000.

Hamilton was inclined to regard a public debt as a source of strength to a government. By scattering the government's bonds among the people, he contended, you create an interest in its stability. Men will always rally to the support of a government which owes them money. Hamilton's financiering, therefore, did not tend to pay off the national debt as rapidly as possible. When his political rival, Jefferson, who was not deeply concerned about the strength of the central government, came into power, a policy of paying off the debt as fast as possible was pursued, and its amount steadily fell until the War of 1812, when it rose to nearly \$125,000,000. After the War of 1812 the policy of reducing the debt continued, and by 1836 the national debt was practically extinguished, and the treasury had on hand about \$40,000,000 for which it had no use. The greater part of this surplus was actually distributed among the States according to population.

After 1836 the government began to incur small debts, and during the Mexican War it borrowed considerable sums. At no time, however, did it become very large until the outbreak of the Civil War, when it jumped from less than \$65,000,000 in 1860 to more than \$500,000,000 in 1862. After 1862 the debt steadily mounted until 1866, when it approached \$3,000,000,000. It then steadily declined until 1916, when the interest-bearing debt was only about \$1,000,000,000.

Upon our entrance into the Great War in 1917, the national debt began to rise and soon reached a figure of startling magnitude. In 1920 the total interest-bearing debt of the United States was in the neighborhood of \$25,000,000,000.

State Debt. A State must not assume a debt incurred in aid of insurrection or rebellion against the United States

(158). This is the only restriction imposed by the Constitution upon the State as to its debts. The constitutions of most States, however, forbid the unlimited borrowing of money, although the restrictions do not extend to borrowing for purposes of public defense. To defend itself against invasion, or to suppress insurrections, the State may borrow to an unlimited extent, upon the principle that the public safety is above every other consideration. In most of the States a deficit can be met by borrowing, but the constitutions usually specify how large a deficit may be met in this way. In some of the States the amount that may be borrowed to cover a deficit must not exceed \$50,000; in others it may be as large as \$1,000,000. In the constitutions of a number of the States it is provided that money can not be borrowed unless the law authorizing the loan is first submitted to the people and their assent to it secured.

The finances of the State governments, broadly speaking, are in a healthy condition. Only in a few States is the State debt considerable, while in many cases it is so small as to be inappreciable. This praiseworthy condition of affairs is due in part to constitutional provisions, in part to the great resources of the State governments, in part to the wisdom and self-restraint of the State legislatures.

Debts of Local Governments. Restrictions upon local governments in reference to borrowing are found in almost every State. If the restrictions do not appear in the constitution, they appear in the laws of the legislature or in the municipal charters. Most of the State constitutions fix the rate of indebtedness that the local government may incur. Frequently this rate is 5 per cent. of the total valuation of the property within the civil division that borrows the money. In nearly all cases, before money can be borrowed by a local government the question must be referred to the people.

Notwithstanding the restrictions placed upon the bor-

rowing power of local governments, they are everywhere throughout the United States heavily in debt. Especially is this true of municipalities. The combined municipal debt is many times larger than the combined debt of all the States. The debt of New York City alone is much larger than the total debt of the forty-eight States, and the debts of many other cities are proportionally as large as that of the metropolis.

The debts of cities have been incurred for the building of water-works, city halls, school-houses, and for the paving of streets and the construction of sewers. These improvements have necessitated the outlay of large sums in a short period of time, and it has not been possible to collect sufficient money by taxation to pay for them as they have been made. The rapid growth of American cities has sometimes caused the expenditures to increase at an alarming rate. In some instances sewers and water-works have been constructed on a scale suitable for a city of a hundred thousand people, and, behold, the population has increased to four times that number! This increase has rendered the old improvements worthless and made necessary the construction of new ones at an enormous expense. Besides, it is generally confessed that the management of the finances of cities has been bad the country over. In the awarding of contracts for public works larger sums of money have been paid to contractors than the work has been worth. Franchises have been granted to corporations for a song, when they ought to have realized large sums. Temporary or floating debts caused by deficits have not been paid promptly by means of taxation, but have been added to the bonded debt.

The management of the finances of cities has called forth various schemes of reform. One of these is the plan of taking away from the city council some of its financial powers and lodging them with the board of estimates (p. 290). Another remedy proposed is to prescribe a property qualification for voters, when financial questions are

involved. This plan is both impracticable and unwise: impracticable, because voters will not consent to it; unwise, because it would be an unnecessary assault upon the principle of democracy. The corrupt bargains that are made in the management of the finances of a city are made by those who possess property, not by those who have no property. A property qualification would not exclude the corruptionists from taking a part in city affairs, but it would exclude many honest men from taking part; and it is to honest men, after all, that we must look for genuine reform. The possession or non-possession of property has really very little to do with the matter. Good municipal government, let it be said again, is purely and simply a question of honesty upon the part of officials and vigilance upon the part of citizens.

How Public Debts are Paid. Public debts, of course, must be paid by taxation. Indeed, they are often called *anticipatory* taxes, from the fact that government, in borrowing a sum of money, anticipates a certain revenue that it expects to receive by taxation. A State can not be compelled by federal authority to pay a debt to a citizen, for, without the consent of the State, a citizen can not bring his suit into a federal court (145) and establish his claim. The United States can not be compelled to pay a debt, for you can not compel a sovereign power to do anything against its will.

It is customary in the United States for a government, national, State, and local, to prepare for the payment of a debt at the time it is incurred, according to the doctrine of Hamilton, who held that the "creation of a debt ought to be accompanied with means of its extinguishment." This preparation usually consists in the creation of a *sinking fund*. Under the sinking fund plan the law that provides for the borrowing of money also provides for the raising by taxation of a certain sum annually, which shall be set aside for the "sinking" or the paying of the bonds

when they shall become due. The sum raised for the sinking fund is inviolate and can be used for no other purpose, unless for public defense.

The United States may borrow money without creating at the same time a sinking fund for its payment; but the constitutions of many States provide that all debts, whether State or municipal, shall be accompanied by means of extinguishment, and the means adopted is usually the sinking fund arrangement.

QUESTIONS ON THE TEXT

1. How does the necessity of public debt originate?
2. Under what circumstances is the government justified in borrowing?
3. Describe a government bond. Upon what does the value of a government bond depend?
4. In what way may governments sometimes make a *forced* loan?
5. What are the provisions of the Constitution in respect to borrowing? What was Hamilton's doctrine concerning a public debt? What was Jefferson's policy in respect to the public debt?
6. Sketch the history of the debt of the United States.
7. What restriction upon the borrowing power of a State is in the federal Constitution? What restriction upon borrowing is usually found in a State constitution?
8. What can be said of the condition of the finances of State governments?
9. What restrictions are placed upon the borrowing power of municipalities? For what purposes have the debts of municipalities been incurred? Why have these debts become so large?
10. What remedies have been proposed for the betterment of city government?
11. Why can not the United States be compelled to pay its debt? Why can not a State be compelled to pay its debt?
12. Explain the sinking fund arrangement.

SUGGESTIVE QUESTIONS AND EXERCISES

1. Compare graphically the *per capita* debt of the United States with that of each of the following countries: England, Germany, France, Italy, Russia, Austria.
2. If the term for which a bond is issued is long, how will that fact affect the price paid for it?
3. Is it right for this generation to contract public debts that must be paid by the next generation? Give reasons for your answer.
4. "Public debt is a public blessing." "Public debt is a public curse." Point out the truth and falsity contained in both of the preceding statements.

5. How much per voter does the United States government owe?
6. What sum does this State owe? this county? this municipality? State the purposes for which these debts were contracted.
7. What provisions does the constitution of this State make in reference to the debt of the State? to the debt of counties? to the debt of cities? What are the advantages and disadvantages of these provisions?
8. Bring a government bond to the class to be examined and studied.
9. Do rents in cities rise and fall with the tax rate? Ask a dealer in real estate about this.
10. Show how the tax rate may be kept low for a while by borrowing. What is the final result of such a system of financiering?
11. Is a large public debt necessary to make a government strong in the hour of its need? Answer this from our own history.

TOPICS FOR SPECIAL WORK

1. Financial Administration of Cities: Goodnow and Bates, 397-426.
2. Municipal Finance: Kaye, 452-456.
3. The City Budget: Howe, 322-344.
4. The National Debt: Munro, 233-245.

XXXVII

MONEY

Closely related to the financial function of government is the function of regulating the monetary system. In order to understand our monetary system we must learn the leading facts about money considered simply as a medium of exchange. In this chapter, therefore, we shall inquire into the nature and characteristics of money, and learn of its use as an agency for the transaction of business.

Money a Commodity. The early colonists brought with them but little money, and they were therefore placed in conditions similar to those that existed in the earliest times, when there was no money and when exchange of goods had to be affected by *barter*; that is to say, when one commodity had to be exchanged for another directly—corn for fish, a horse for a cow. Exchange by pure barter, however, is too clumsy to be practised long. An intelligent people will always find some commodity that will pass from man to man as money and thus make exchange easy.

The colonists in Virginia chose *tobacco* as a substitute for the silver and gold coins they lacked. Tobacco was in universal demand. The Indians prized it highly, the colonists themselves used it freely, and merchants were always ready to purchase it when it was brought down to the ships that traded with the New World. Men, therefore, would accept tobacco in exchange for a commodity, not because they themselves wanted tobacco, but because they knew that that commodity was so generally desirable that they would have no trouble in exchanging it for any other commodity they might wish.

There were other reasons why tobacco could be ex-

changed for any other kind of goods. A small bulk of it contained a great deal of value, a pound, in the early days of the colony, being worth three shillings in England. Again, tobacco could be easily divided and subdivided, and articles of small value as well as of great could be exchanged for it. One pound of tobacco usually represented about the same value as another. These characteristics of tobacco, joined with the universal demand for it, led to its use as money.

In New England, in the early days when coin was scarce, corn was used as a substitute for money, although it proved to be a poor substitute. In New York, Indian wampum or polished clam-shells passed as money among the settlers. Each colony adopted as money the commodity that would circulate most readily.

The Precious Metals. As industries in the colonies multiplied and trade and wealth increased, gold and silver became more abundant, and the use of the cruder kinds of money was abandoned. This was to be expected. No other commodity performs the functions of money so well as these metals. The reason why the precious *metals*—as silver and gold are called—are everywhere used to the exclusion of other metals may be summed up as follows:

(1) They possess much value in little weight and bulk, and can therefore be carried easily from place to place, and can easily be concealed and guarded.

(2) They can be easily divided and manufactured into small pieces as well as into large ones, and can thus be made suitable for the payment of sums varying in amount.

(3) Time does not destroy their value, and the wear and tear of handling is very small.

(4) They do not vary in quality. "There is no such thing as inferior gold or inferior silver."

(5) They have a value of their own apart from their usefulness as money, for they are used in the manufacture of many expensive articles of commerce.

Coinage of Money. When a farmer takes eggs to a store and exchanges them for sugar, a certain quantity of sugar is weighed in scales. If metallic money is desired in exchange for the eggs, if the farmer wishes to buy money with his eggs, a certain weight of gold or silver is given to him; but the scales are not brought into the transaction. The pieces of money have been weighed in the government's mint, and the farmer is satisfied as to their weight and fineness.

In ancient times scales were employed in transactions like the above. Gold and silver, like sugar, were weighed when they passed from man to man as money. Since accurate weighing and testing were difficult processes, it became the custom to stamp upon a bar or ring of the precious metal its weight and fineness. The bar or ring thus stamped became a *coin* and did not need further weighing. The processes of coining were originally conducted by private individuals, usually by goldsmiths; but experience showed that private coinage led to fraud, and governments were compelled to take the matter into their own hands. Coinage is now everywhere recognized as a proper function of government.

Under the Articles of Confederation Congress had the power to coin money, but it had not the bullion (uncoined gold and silver) to coin. The little money that was coined during the period of the Confederation was struck off by private individuals under the authority of the various States. The framers of the Constitution took the right of coinage away from the State (72) and lodged the power entirely with the federal government (49).

Paper Money. Every one of the kinds of money thus far mentioned has an *intrinsic* value, an inherent, essential value arising out of its usefulness as a commodity and separate from its character as money. Tobacco is desirable as a means of gratifying a certain appetite, and when it ceased to be used as money it was still valuable; silver

and gold are highly prized as articles of commerce, and coins made of these metals are valuable even after they have been melted and have lost their form as money.

There is another kind of money that has played an important part in the history of the American people. This is *paper money*, which may be defined as money that neither possesses nor represents intrinsic value. Paper money may be printed and issued by a government with the promise that it will be redeemed for intrinsic money, or it may be issued by a bank as a promissory note payable in intrinsic money, but it is never intrinsic money itself. Paper money is usually made a *legal tender*; that is, the holder of it may tender, or offer, it in payment of a debt, and the creditor must receive it as lawful money. Paper money is sometimes called *fiat* money, because government makes or attempts to make it worth so much.

The Continental Congress of 1775 issued \$2,000,000 in bills of credit based upon the credit of the States. As the war progressed, issues became larger and more frequent, and by 1779 more than \$200,000,000 of the paper money was in circulation. In addition to this sum, the individual States issued about \$200,000,000 in paper money. During the first part of the war the notes were accepted willingly and circulated freely at their face value; but in 1777 they began to decline in value, and in January, 1779, eight dollars of the paper money were worth only one dollar in silver. Congress did not formally make the Continental paper a legal tender, but it enacted that the man who refused to take it was an enemy of his country. People, however, could not be compelled to receive it. It depreciated until it took one thousand dollars of the paper money to purchase as much as could be purchased with one dollar of silver. Finally the Continental money became absolutely worthless—"not worth a continental." Barber shops were papered in jest with the bills; sailors, on returning from their cruises, being paid off in bundles of worthless money, had suits of clothes made of it.

In 1785 and 1786 there were extensive issues of paper money by the individual States. These proved to be the cause of much confusion and injustice, and when the framers of the Constitution came to the subject of paper money they took from the States altogether the right of issuing bills of credit, and of making anything but gold and silver coin a legal tender in payment of debts (73).

Representative Money. Paper money must not be confused with *money paper* or *representative* money. When tobacco was used as money in the colonies, it was customary to store large quantities of the weed in warehouses and give the depositor a receipt for the amount deposited. This warehouse receipt passed from hand to hand as money. It was not paper money, for it could be redeemed for intrinsic money—tobacco. A very large part of the money now in circulation among us resembles those tobacco receipts, and consists of printed *certificates* stating that there has been deposited in the treasury of the United States a certain quantity of gold or silver which the holder of the certificate may obtain by presenting the certificate at the treasury for redemption. Representative money has been invented to save the trouble of carrying and handling the real money.

Rivalry of Gold and Silver; Gresham's Law. Experiments with paper money before the adoption of the Constitution were so unsatisfactory that the new government decided to create a currency that should have a metallic basis. Accordingly, it established a mint, and enacted a coinage law which provided for the free coinage of gold and silver. "It shall be lawful," said the statute, "for any person or persons to bring to the said mint gold or silver bullion in order to their being coined, . . . free of expense to the person or persons by whom the same shall have been brought. And as soon as the said bullion shall have been coined the person or persons by whom the same shall have been delivered, shall upon demand receive in

lieu thereof coins of the same species of bullion which shall have been so delivered, weight for weight, of pure gold or silver therein contained. That all gold and silver coins which shall have been struck (stamped) and issued from said mint shall be a *lawful tender* in all payments whatsoever."

The relation that was to exist between the value of gold and that of silver was stated in these words: "Every fifteen pounds weight of pure silver shall be equal value in all payments with one pound of pure gold." The law of 1792 thus provided for *free coinage* of gold and silver at the ratio of fifteen to one. A dollar of gold contained 24.75 grains of pure metal, and a dollar of silver 371.25 (15×24.75) grains.

The mint continued to coin the precious metals at the ratio of fifteen to one until the year 1834, when it was found that fifteen pounds of silver was not worth one pound of gold. About this time one pound of gold in foreign market was worth nearly sixteen pounds of silver. The holders of a pound of gold, therefore, were not willing to pay it out in the United States, where it was worth but fifteen pounds of silver, just as farmers would not be willing to exchange a bushel of wheat for seventy-five cents in the home market when they could get eighty cents elsewhere. As a result of the over-valuation of silver (or the under-valuation of gold) there came into operation a monetary principle which is known as "Gresham's law," and which is usually stated as follows: "Bad money tends to drive out good money, but good money can not drive out bad." This law does not mean that either silver or gold is of itself either good or bad. It means that people will pay their debts and purchase articles with the cheapest money available, and that they will either hoard or send abroad the dearer money. Under the law in force before 1834, silver was driving gold from circulation, because everybody who could do so was holding back his gold, and paying his debts and making his purchases in silver.

In order to bring gold back into circulation, Congress in 1834 reduced the weight of the gold dollar to 23.22 grains of pure metal, allowing the silver dollar to remain 371.25 grains. The ratio thus established was (nearly) sixteen to one—a ratio at which the two metals have ever since been coined. Under this law the free coinage of both metals continued as before.

It was soon found that the new ratio of sixteen to one over-valued gold, and Gresham's law again came into operation. This time, since gold was the cheaper money, silver was driven from circulation. In 1850 a silver dollar was worth \$1.02 in gold, and after the discovery of gold in California the relative value of silver was still higher. As a consequence, between 1837 and 1873 but little silver, except in the form of subsidiary coins (see next chapter), was coined.

QUESTIONS ON THE TEXT

1. What is the meaning of barter? Name some of the conveniences of barter.
2. Why did the colonists of Virginia use tobacco as money? What other commodities were used by the colonists as money?
3. Give reasons why gold and silver are universally used as money.
4. What was the origin of coinage? What is the provision of the Constitution in respect to coinage?
5. Give a definition of paper money. What is legal tender?
6. Give an account of paper money used during the Revolution.
7. What does the Constitution say about the issue of paper money?
8. What is representative money? Contrast representative money with paper money.
9. State the provisions of the coinage law of 1792. What is "Gresham's law"? Explain how his law has worked in our monetary history.

SUGGESTIVE QUESTIONS AND EXERCISES

1. Let us suppose that in 1615 a pound of tobacco in Virginia would purchase a bushel of corn; if five years later a pound of tobacco could be raised with half the labor that it formerly took, while a bushel of corn required the same amount of labor, how much corn could be purchased in 1620 for a pound of tobacco? Why would a pound of tobacco in 1620 have less purchasing power than in 1615?

Is the purchasing power of a piece of money proportional to the labor that has been spent in obtaining it?

2. A man went to Klondike and secured enough gold dust to make \$5,000 in coin. Describe the travel, the hardships, the labor which the money represented.

3. If a gold-mine as rich as Klondike should be discovered in every State, how would the production of gold be affected? Would prices be higher or lower after the discovery? What relation exists between prices and the amount of money in circulation? If iron were used as money, would prices be high or low?

4. What properties have diamonds that would make them suitable as a medium of exchange? What properties do they lack?

5. In what places is gold produced in large quantities? Where are the largest silver-mines?

6. Do gold and silver fluctuate in value, like cotton and sugar? Compare the price of wheat, silver, cotton, beef, and sugar during the last ten years, and determine in which commodity there have been the greatest variations in value.

7. Does the laborer buy money with his labor? Does the capitalist buy labor with his money? Does the farmer buy money with his wheat?

8. Would you accept a ten-dollar gold piece upon the condition that you were not to use it as money? Would it be worth while to accept a ten-dollar bill upon similar conditions?

9. Is legal-tender paper money worth more or less than the paper upon which it is printed?

10. Name all the different kinds of money you have seen.

11. The law of 1792 quoted in the lesson says: "Every 15 lbs. weight of pure silver shall have equal value in all payments with one lb. of pure gold." Why fifteen to one? Why not ten to one?

12. How many grains of silver are there in a silver half-dollar? Are two silver half-dollars worth one silver dollar? Do they contain as much silver as a silver dollar?

13. If you are worth your weight in gold, how many dollars are you worth?

14. If a government should open its mints to the free coinage of silver and copper, what rate would be established between the two metals? (Use the market quotation found in the newspapers.)

TOPICS FOR SPECIAL WORK

1. Money: Carver, 292-303.

2. Development of Metallic Money: Bullock, 224-233.

3. Bimetallism: Bullock, 303-313.

4. The Monetary System of the United States: Beard, 374-378.

5. Conflict over Bimetallism, 278-279.

XXXVIII

THE CURRENCY OF THE UNITED STATES

In the preceding chapter we learned of the general characteristics of money and of its uses as a medium of exchange. In this chapter we shall have an account of the several kinds of currency now in circulation in the United States.

Different Kinds of Currency. The term "currency" includes all money, whether metallic or paper, that circulates at its face value. The currency of the United States at present consists of gold coins, certificates representing gold, silver dollars, certificates representing silver, subsidiary silver,—half-dollars, quarter-dollars, and dimes,—coins of bronze and nickel, United States notes (greenbacks), national bank notes, federal reserve notes, and federal reserve bank notes.¹

Gold Coin and Gold Certificates; Silver Dollars and Silver Certificates. The total amount of money in circulation in the United States is approximately \$6,000,000,000. Of this, nearly one third consists of gold coin, gold certificates, silver dollars, and silver certificates. As we have already learned, the coinage of gold and silver under the authority of the federal government began in 1792. The free coinage of the two metals continued until 1873, when Congress discontinued the coinage of silver and established as the unit of value the gold dollar of the weight of 23.22 grains of fine gold with one tenth of alloy to prevent abrasion. The demonetization of silver (i. e., the refusal of the govern-

¹ There are also in circulation a few of the Treasury notes of 1890, but inasmuch as these notes are disappearing from circulation they do not require our attention.

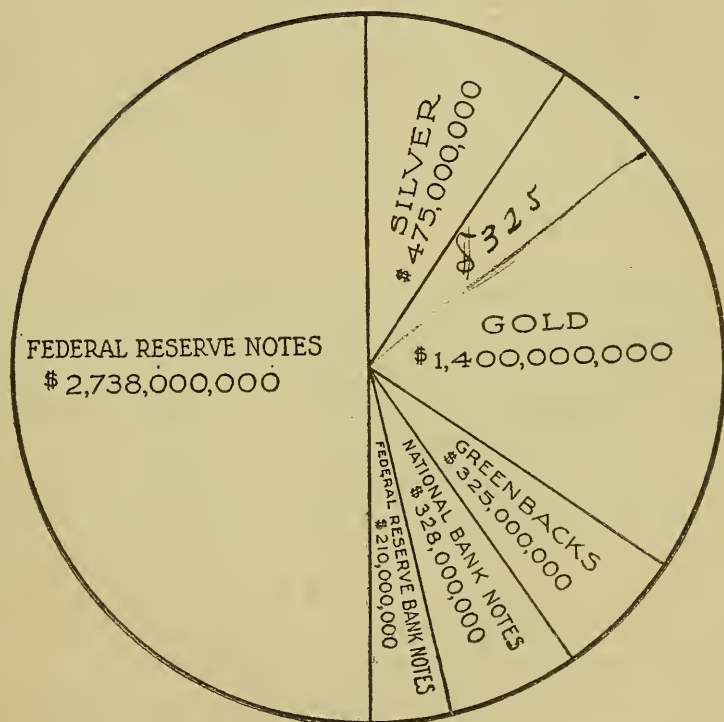
ment to coin the metal) was an unpopular measure, and gave rise to a long conflict between the friends of silver and the friends of gold. After the "battle of the standards" had raged for more than a quarter of a century, the victory was at last won by the friends of the yellow metal. Under the law of 1900, gold was made the standard unit of value, and no provision was made for the coinage of silver¹ other than that which was already in stock. Silver dollars and silver certificates, however, are still legal tender, and it is the declared policy of the government to keep them on a parity with gold; that is to say, when silver certificates are presented to the treasury for redemption, it is the policy of the government to redeem them in gold at their face value, and if silver dollars are presented for exchange, they will be exchanged for gold, dollar for dollar. The coinage of gold is free.

Subsidiary Coinage. The account of the coinage that has been given has referred to coins of a denomination of one dollar and upward. Silver coins of a denomination of less than a dollar have been issued ever since the establishment of the mint. These are known as *subsidiary coins* or fractional currency, and consist of the familiar half-dollar, quarter-dollar, and dime. These are legal tender to the amount of ten dollars. In the half-dollar there are 173.61 grains of pure metal, and proportional weights in the quarter-dollar and dime. Below the subsidiary silver are the minor coins of base metal, the five- three- and one-cent piece, which are legal tender to the amount of twenty-five cents.

United States Notes (Greenbacks). We learned that during the Civil War the federal government issued large quantities of inconvertible paper money, making the

¹ The government still purchases silver for subsidiary coinage and for coins used in the Philippine Islands.

same a legal tender (p. 293). The notes thus issued are officially known as *United States notes*, but they are popularly called *greenbacks*, a name given to them on account of the green color of their backs. In all, about \$450,000,000 in United States notes was issued. When the war was over, the government began to destroy the greenbacks when they came into the treasury, just as one de-



THE CURRENCY OF THE UNITED STATES

stroys a promissory note when it has been paid. The policy of retirement (destruction) of the greenbacks continued until 1868, when Congress, giving heed to a popular demand, ceased to retire them. Now that they were to remain in circulation, measures were taken to make them as good as gold. A redemption fund, consisting of \$100,000,000 in gold, was provided, and holders of greenbacks were given to understand that if they would present the

notes to the Secretary of the Treasury he would redeem them in gold, dollar for dollar. But it was only in small sums that the greenbacks were presented. The knowledge that they were as good as gold satisfied everybody, and no gold was demanded.

What was to be done with the greenbacks after they were redeemed? Congress (in 1878) answered this question by providing that when a greenback was redeemed in specie it "should not be retired, canceled, or destroyed, but should be reissued and paid out again and kept in circulation." So the greenbacks were kept in circulation, and to-day they are a familiar form of currency. In 1878 they amounted to \$346,000,000, and this amount has never been materially decreased.

National Bank Notes. Another familiar form of our currency consists of bank notes, nearly two thirds of all the money in circulation being currency of this kind. A bank note is a promissory note, payable on demand, made and issued by a bank and intended to circulate as money. Whether a bank note will circulate as money or not ordinarily depends upon the reputation of the bank and upon its ability to pay the note when presented for payment. If the persons to whom the note is offered have no faith in the bank's promise they will not receive the note, and its circulation is thereby made impossible.

Of the bank notes in circulation a very considerable number are issued by the national banks. In 1863, in order to promote the financial operations of the government during the war, Congress created a system of national banks, which became the basis of our banking system as it exists at present. The national banking system of to-day may be described as follows:

(1) National banks with a capital of \$25,000 may be organized in towns of less than 3,000 inhabitants; in towns of more than 3,000 and less than 6,000 inhabitants the capital must be not less than \$50,000; in places of more than

6,000 and less than 50,000 inhabitants it must be not less than \$100,000; in places of more than 50,000 it must be not less than \$200,000.

(2) The organizers of a bank (not less than five in number) must purchase United States bonds (issued prior to 1917) equal in amount to at least one fourth of the capital of the bank, and deposit these bonds with the Treasurer of the United States at Washington. The bank remains the owner of these bonds and receives interest from them.

(3) The bank receives from the Comptroller of the Currency *national bank notes* equal in amount to the par value of the bonds deposited. These bank notes are not legal tender; they are promises to pay—like the notes of any bank.

(4) The banks' notes are secured by the bonds in the possession of the Treasurer of the United States. If a bank should fail in business and be unable to redeem its notes in legal-tender money, the Comptroller will sell the bonds and get the money with which to redeem the notes. A bank note is thus as good as a government bond, as good as the government itself. Banks frequently fail, but the holders of their notes have never lost a dollar by reason of the failure.

Federal Reserve Notes. Federal Reserve Bank Notes. More than half of all the money in circulation consists of notes issued by the federal reserve banks, which were established by Congress in 1913. The purpose of these banks is two-fold: first, to bring about a more even diffusion throughout the country of the money that is already in circulation; and second, to make such additions to the present volume of currency as the conditions of trade may require. Under the federal reserve act the United States has been marked off geographically into twelve districts, and in one of the cities of each district there has been established a federal reserve bank. The cities that have federal reserve banks are: Boston, New York, Philadelphia, Cleveland, Richmond,

Atlanta, Chicago, St. Louis, Minneapolis, Kansas City, (Missouri), Dallas, and San Francisco. The members and owners of a federal reserve bank are the national banks within the district and such State banks and trust companies as may choose to join under the conditions laid down by the law.

The federal reserve bank is a bank of banks: its depositors are the member banks and the deposits in its vaults consist of a certain specified portion of the *reserve fund* which the member banks within the district are required by law to keep in their possession for the safety of their customers. The borrowers from a reserve bank are the member banks within the district. X Before 1914, a very large portion of the reserves of banks flowed into two or three financial centers, and there was a harmful congestion of money in those centers; but under the act of 1913 the reserves of the banks of a given district are kept within the boundaries of that district and congestion is prevented. Yet under certain conditions reserves may flow from one district to another, for in an emergency funds may be transferred from one reserve bank to another, if in the judgment of the Federal Reserve Board (p. 130) the transfer is desirable.

The currency issued by the federal reserve banks consists of two classes of notes: *federal reserve notes* and *federal reserve bank notes*. Federal reserve notes are secured, not by bonds, as in the case of national bank notes, but by a gold reserve equal to 40 per cent. of the face value of the note plus an amount of commercial paper (promissory notes) equal to 100 per cent. of the face value. In addition to this security, the United States treasury is pledged to redeem in gold or in other lawful money all federal reserve notes. X Federal reserve bank notes are secured by the bonds of the national government just as national bank notes are secured. The issue of notes by federal reserve banks is supervised and regulated by the Federal Reserve Board.

Essential Facts of Our Monetary System. We are now prepared to understand the following summary of our monetary system:

(1) The federal government has complete control of all currency issues and may issue legal-tender paper money as well as gold and silver currency.

(2) The gold dollar of 23.22 grains is the unit of monetary value, and the coinage of gold is free. The amount of gold coined from year to year is wholly a matter of private initiative. Government does not regulate it. The amount is regulated by supply and demand—the supply of gold bullion and the demand for gold coin.

(3) Silver dollars and silver certificates and United States notes (greenbacks) are exchangeable for gold at their face value upon presentation at the treasury of the United States.

(4) This redemption, or exchange, is made possible by the reserve fund in gold, which the government keeps in its vaults.

(5) The paper money, when redeemed with gold, is again used by the government in the payment of its debts, and thus again finds its way into circulation.

(6) The volume of money in circulation is increased by the coinage of gold at the mints and by the notes issued by banks.

QUESTIONS ON THE TEXT

- 1. Name the different kinds of currency.
2. What portion of our currency consists of gold and silver? What were the terms of the currency law of 1900?
3. Give an account of subsidiary silver coinage.
4. Sketch the history of the United States notes.
5. What is a bank note? Give an account of the national banking system and of the notes issued by national banks.
6. Give an account of the federal reserve system and of the notes issued by federal reserve banks.
7. State the essential facts of our monetary system.

SUGGESTIVE QUESTIONS AND EXERCISES

1. If you had \$100 in a bank and owed a man living at a distance \$26.87, how would you be likely to pay the debt? Is a bank check

currency? Does it take the place of currency? A, B, and C meet. A owes B \$5, B owes C \$5, and C owes A \$5. A draws a check for \$5 and pays B; B pays C with the check; C pays A with the check. After the transaction is finished and each has a receipt, A remembers that he had no money in the bank. Can a debt be paid without money?

2. Draw a promissory note. Compare the language of the note with that found on a national bank note. Under what conditions would you accept a promissory note in payment of a debt?

3. Study what is printed on a national bank note, and answer the following questions: is it legal tender for all debts? What is the penalty for counterfeiting it? When and where was it issued?

4. Study what is printed on a federal reserve note, and answer the questions asked above.

5. Suppose a bank note that you hold should be destroyed, would the bank gain by reason of the accident?

6. Study what is printed on a United States note, and answer the following questions: In what year did Congress authorize it to be issued? Is it legal tender? What is the punishment for counterfeiting it? It says: "will pay the bearer five dollars." What did these words mean at the time the note was issued? What do they mean now?

7. How much currency per capita is in circulation in the United States? How much per voter?

8. Procure, if possible, a gold certificate, a silver certificate, and a United States note, and bring them to the class for the purpose of study. According to the language on its face, what metal would you get for the gold certificate if you should present it at the treasury for redemption? What metal would you get for the silver certificate? Supposing you knew you could get gold for your United States note if you asked for gold, would you regard it as good as a gold certificate? Supposing you understood that the government's supply of gold for redemption purposes was running low, what would you be inclined to do with your United States note? Supposing you should burn your gold certificate, would the government gain or lose?

TOPICS FOR SPECIAL WORK

1. Banking: Carver, 304-316.
2. Government Paper: Bullock, 263-269.
3. Use of Money in Making Exchanges: Thompson, 199-212.
4. Banking and Its History: Thompson, 227-240.
5. The Federal Reserve Banking System: Munro, 240-242.

XXXIX

FOREIGN COMMERCE

We come now to the great subject of commerce. Commerce may be defined as the exchange of goods, merchandise, or property of any kind. All governments find it necessary to regulate commerce. In the United States the commerce power is divided between the State and the federal government. To the federal government belongs the power of regulating foreign commerce, interstate commerce, and commerce with Indian tribes. In this chapter we shall learn of the regulation of foreign commerce.

Power of Congress Over Foreign Commerce. The power of Congress over foreign commerce is limited in only two particulars: (1) It must deal fairly with all the ports of the country, and not give one port a preference over another (68); and (2) it must not lay any tax or duty on articles exported from any State (67):

The power of government to regulate commerce is construed very broadly, and extends not only to the goods exchanged and to the agencies of transportation, but to the movement of persons as well. Congress, therefore, in the exercise of its constitutional power can do much to influence the character of our foreign commerce and to shape its course. Indeed, Congress can prohibit foreign commerce altogether, as was illustrated by the non-importation act of 1806, and by the embargo act of 1807. Under the non-importation act foreign goods could not be brought into the country, and under the embargo act vessels could not leave the harbors of the United States. During the war with Germany Congress laid its hand upon foreign trade and directed its movements according to the needs of the hour, determining what kinds of goods might leave the country and to what country shipments of goods might be made.

The Tariff; Free Trade and Protection. Of the many regulations made by Congress affecting foreign commerce, one of the most important refers to the tariff. As heretofore stated, it has always been the policy of the United States to raise a large part of the national revenue by means of a tariff or duty laid on imported goods (p. 277). On what principle shall the tariff be laid? Shall every imported article be taxed at the same rate, or shall some be taxed at a high rate and others at a low rate? Shall some kinds of goods be allowed to come in free?

From the beginning of our national history to the present time, two distinct policies have been advanced in reference to foreign goods: (1) the free-trade policy and (2) the policy of protection. The adherents of the free-trade policy, regarding free commercial intercourse between nations as a good thing in itself, contend that taxes on foreign goods should be levied, not with the view of keeping the goods out of the country, but with the view of raising the necessary revenue, and with that view only. The adherents of the protective policy, desiring to protect home producers from competition with foreign goods, would levy the customs not so much with the view of raising revenue as with the view of at least discouraging importations.

The essence of the free-trade argument is that, under normal conditions of production and competition, a country will satisfy its needs with the least possible effort. Those things that can be produced with the greatest economy at home will be so produced and any surplus will be exchanged abroad for what other nations can produce with less effort. Commerce between two countries, each of which produces according to its natural resources, is always profitable to both countries, the free-traders contend, for each country exchanges that which it wants less for that which it wants more.

The argument of the protectionist is that by imposing

high import duties upon certain classes of goods and thereby partly or wholly keeping them out of the country you encourage the production of those goods at home, and this encouragement results in new occupations and in a diversified industry at home. The additional producers thus called into being by the protective tariff are also consumers, and they buy at least a part of the country's surplus. Another argument for protection is based upon the difference in the standards of comfort and rates of wages in different countries. If there were no tariff hindrances the lower standard and the lower wage would be given the advantage in competition and workmen would suffer as a result.

Tariff Legislation. The tariff has been an important issue in American politics from the foundation of our government. The first act that was passed by Congress relating to foreign commerce imposed moderate duties on the commerce of all nations. Its main object was to raise revenue, although it had mild protective features. The active principle of protection was first seen in a law passed in 1816. After the War of 1812 the English manufacturers rushed into our markets with their goods "as if to the attack of a fortress." To shut out some of these goods and protect American manufactures, a duty of 25 per cent. was placed upon woolen and cotton goods, and 30 per cent. upon certain other goods, notably upon carriages, shoes, and paper. These high duties were not imposed for the sole purpose of raising more revenue; they were imposed for the protection of the home market.

After 1816 the protective system was never wholly abandoned, although a fluctuating policy always modified our tariff legislation, the rate at one time being brought down so low as to delight the free-traders, and at another time raised to a point that caused the protectionists to rejoice. Although public sentiment in regard to the tariff has al

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" " 1832

still in existence
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ways been divided, a century of experience has shown clearly enough that the American people are strongly inclined to the protective principle.

The Tariff Commission. Experience has also shown that it is next to impossible to frame a tariff law that will meet with the general approval of the people. This is because the tariff has been made the foot-ball of politics. Rates have been fixed, not with the view of benefiting the whole nation, but with the purpose of gaining an advantage for this or that political party or for this or that section. In order to take the tariff out of politics the Tariff Commission (p. 130) was created. Of the six members of this body, not more than three may be members of the same political party. The duty of the commission is to investigate the fiscal and industrial effects of the customs laws and to report the result of their investigation to the President and to Congress. The commission has no administrative or judicial function. It has no power to fix a rate; it can only investigate and report. To fix a rate is to levy a tax, and the taxing function belongs to Congress (44) and is a power that can not be delegated to another body. While Congress must continue to determine the rates, it is nevertheless expected, and with good reason, that the suggestions of the commission will have great weight with the law-makers.

Regulations of Foreign Shipping. In its regulations affecting vessels engaged in foreign trade, Congress has always aimed to protect and promote American shipping interests. Only vessels built within the United States and wholly belonging to citizens thereof could be registered as American until recently, when Congress (in 1912 and 1914) amended the laws and allowed foreign-built seaworthy ships owned by American citizens to be registered as American ships for foreign trade. Moreover, unless a vessel is officered by Americans it can not fly the American flag. Vessels engaged in foreign commerce must, as a rule, pay into

the federal treasury a small tonnage tax. Foreign vessels can not engage in the coasting trade, or in trade between the United States and its insular possessions (except the Philippines).

Foreign Commerce Assisted by the Federal Government. Congress not only regulates foreign commerce, but in a very practical fashion it assists it in many ways. We have already seen that the interest of American trade abroad is cared for by our consular agents (p. 259). It is cared for at home by the Bureau of Foreign and Domestic Commerce (p. 130). The primary function of this bureau is to gather and give out practical data to enable American manufacturers to cultivate the markets of the world with the greatest possible effect. "It is constantly watchful at many points in the current of commercial life. From the bazaars of Madras it transmits textile information to the mills of New England. From Bolivia it sends samples of hardware to be inspected by the exporting houses of New York. On the farms of South Africa and Australia its agents investigate the prevailing types of agricultural machinery so they may bring that knowledge to the manufacturing enterprises in our Middle West. The representatives of the bureau penetrate to the remote regions of the earth, that the exporters of the United States may proceed intelligently, on a basis of definite facts, to the conquest of new fields."¹

For the benefits of trade as well as for the saving of human life, the federal government supports a Coast Guard Service, which patrols the coast and sends out life-boats and throws out life-lines to save passengers and cargoes of vessels in distress. For the purpose of encouraging, developing, and creating a prosperous merchant marine, it has established the Shipping Board (p. 130). This board may build, purchase, lease, or operate vessels itself or lease them to be operated by others. It may also exercise

¹ Annual Report of the Secretary of Commerce, 1916, p. 58.

important powers in respect to the regulation of the rates and fares charged by common carriers engaged in the foreign trade.

QUESTIONS ON THE TEXT

1. How is power in respect to commerce divided?
2. What is the extent of the power that Congress has over foreign commerce?
3. What is meant by free trade? by protection? Give the leading arguments of free trade; of protection.
4. What can you say of our tariff legislation?
5. For what purpose has the Tariff Commission been created?
6. What regulations of foreign shipping have been made by Congress?
7. In what ways does the federal government give practical assistance to our foreign trade?

SUGGESTIVE QUESTIONS AND EXERCISES

1. Name the articles of commerce that can be easily produced in the United States. Name those articles that can not be easily produced.

2. Compare graphically the volume of the commerce of the United States with that of each of the leading countries of the world. (See *Review of World's Commerce*, issued by the Bureau of Foreign Commerce; also *Statesman's Year Book*.)

3. What class of business men suffer when the tariff is suddenly raised? When it is suddenly reduced?

4. What is meant by reciprocity? What are subsidies? bounties?

5. To what four countries do we sell the most? From what four countries do we buy the most?

6. What is the present policy of each of the political parties in reference to the tariff?

7. "Commercial rivalries end in the battle-field." Is this statement necessarily true?

8. What is meant by a "prohibitive tariff"?

TOPICS FOR SPECIAL WORK

1. Free Trade: Carver, 338-347.
2. Protectionism: Carver, 348-361.
3. Restriction and International Trade: Bullock, 387-410.
4. The Tariff in the United States: Thompson, 256-268.
5. The Trade of the United States: Thompson, 241-255.

XL

THE STRANGER WITHIN OUR GATES

Since passengers as well as goods come within the scope of the commerce power, Congress while exercising its control over foreign commerce is called upon to regulate immigration. At this point, therefore, we may take up the subject of immigration and consider some of the leading questions connected with our foreign population.

Extent and Character of the Immigrant Population.

For more than seventy years foreigners came to our shores in an ever swelling tide. The stream of immigrants that poured into the United States between 1845 and 1915 was the mightiest movement of population in all history. Within those years nearly thirty millions of people left foreign countries to seek homes in America. In the earlier years of the movement the immigrants came from western Europe, from England, Scotland, Ireland, Germany, and France. After the close of the Civil War a tide of immigration began to flow strong from Norway and Sweden and Denmark. The immigration from the northern countries of Europe continued until nearly one fourth of all the Scandinavians in the world had settled in the region that stretches from Lake Michigan to Puget Sound. In the last years of the nineteenth century another great stream of immigrants set in. This time they came from southern and southeastern Europe—Italians, Greeks, Slavs, Poles, Bohemians, Slovaks, Ruthenians, Serbs, Magyars, Croats. The new stream in the opening years of the twentieth century became a flood. In a single year (1907) there were admitted into the United States nearly a million and a half foreigners, the great majority of whom came from southern and southeastern Europe.

The result of the sudden and mighty influx of recent years went far toward changing the character and the complexion of the American population. At the outbreak of the war with Germany one third of our people had to be classified as being of foreign parentage, while the foreign-born numbered one sixth of all the adults in the country. Never before had the foreign-born and their children formed so large a proportion of the American people. In Detroit and Cleveland but one man out of five had parents born in this country; in Chicago and New York, one out of six; in Milwaukee, one out of seven; and in Fall River, *one out of nine!*

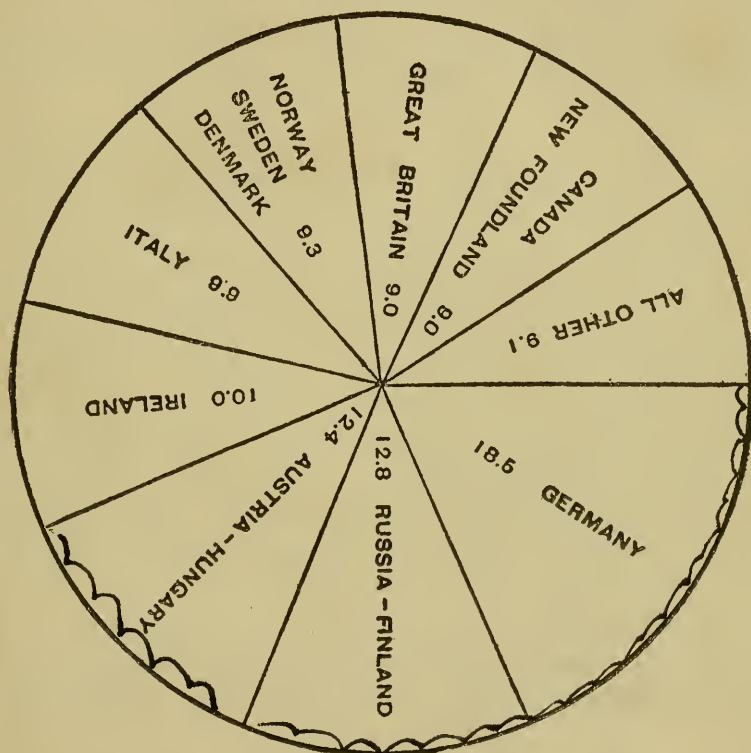
Restrictions upon Immigration. The regulation of this incoming tide of humanity devolves upon the federal government. Before 1808 Congress, by the terms of the Constitution (Art. I, Sec. 9), was prevented from interfering with the admission of foreigners. Since that date, however, Congress has had full control of immigration.

In dealing with questions relating to the admission or exclusion of foreigners, the federal government has generally pursued a liberal policy. It has thrown wide open the doors of hospitality and given a welcome to the strangers of almost every land.

About 1880, however, America began to feel that immigration on a large scale was no longer desirable, and demanded that restraints be placed upon the admission of foreigners. First the Chinese were excluded. In 1882 Congress prohibited Chinese laborers from coming into the United States, and but few of these people have entered since the exclusion law was passed. In the same year Congress ordered that the character of all immigrants be looked into, and commanded that convicts, lunatics, idiots, and other persons not able to take care of themselves should not be admitted into the United States, but should be sent back at the expense of the owners of the vessels upon which they came. By a law of 1885 it is made unlawful for certain

classes of laborers to enter the United States, if they have previously entered into a contract to perform labor here, and any person brought here under a contract to perform labor can be sent back at the expense of the vessel that brings him.

While immigration was flowing so strong between 1895



WHERE THE FOREIGNERS COME FROM

(This chart shows the several countries from which foreigners in America have come and the percentage of the total foreign-born population coming from each country. The total foreign-born population in 1910 was 13,515,886.)

and 1915, there arose a demand for further restriction. The demand became so insistent that Congress at last responded and passed (1917) the Burnett Bill. This law raised the tax on immigrants from \$4 to \$8; it imposed heavier penalties for bringing in persons whom the law seeks to exclude; its provisions in respect to contract labor

were made harder; and, above all, it provided a "literacy test" by requiring that all immigrants over sixteen years of age shall be able to read in some language.

The execution of the exclusion laws is vested in the commissioner-general of immigration, the head of the Bureau of Immigration in the federal Department of Labor (p. 130). The commissioner-general issues orders for carrying out the immigration laws, protects aliens from fraud and loss, and looks after the deportation of undesirable aliens.

Benefits of Immigration. While putting up the bars against immigrants, we must not forget the important part that immigration has played in the development of our country. For in the upbuilding of America we have relied in no small degree upon the brain and brawn of the foreigner. Had it not been for the millions of immigrants who have come to us from England, Ireland, Germany, Scandinavia, France, and Italy, a large part of the United States would doubtless still be a wilderness. And at the present time the services of immigrants in the industrial life of the nation are immense. The immigrant with truth may say to himself:

I do seven tenths of the bituminous coal mining.

I do seven eighths of all the labor in the woolen mills.

I contribute nine tenths of all the labor in the cotton-mills.

I make nineteen twentieths of all the clothing.

I manufacture more than half the shoes.

I build four fifths of all the furniture.

I make half of the collars, cuffs, and shirts

I turn out four fifths of all the leather.

I make half the gloves.

I refine nineteen twentieths of the sugar.

I make half the tobacco and cigars.

I contribute 80 per cent. of all the labor in the slaughtering and meat-packing industries.

Naturalization. The immigrant does not expect to remain a stranger in America. He looks forward to the time when he shall be a citizen of the United States. He may become a citizen by complying with the regulations prescribed by Congress (48) for naturalization. The process of naturalization is as follows: (1) At least two years before he can be admitted as a citizen, the alien must appear before a State or a federal court and take an oath that it is his intention to become a citizen of the United States and "to renounce forever all allegiance and fidelity to any foreign prince or state, and particularly to the one of which he may at the time be a citizen or subject." He must also swear to support the Constitution of the United States. (2) Not less than two years nor more than seven years after this declaration of his intention, the alien may petition a federal or a State court for full admission as a citizen. In the petition he shall set forth that he is not a disbeliever in or opposed to organized government; that he is not an anarchist; that he is not a polygamist or a believer in polygamy; and that it is his intention to reside in the United States. If the judge of the court is satisfied that the alien applicant is able to speak the English language and write his own name, that he has resided in the United States for five years, and that he is a person of good moral character, full citizenship will be conferred upon him. Alien Chinese and Japanese are not entitled to be naturalized.

A person naturalized has the same rights as a native-born citizen of the United States. He has the same rights in regard to property; the same right to earn a living for himself and family; the right to enjoy that which he has earned; the same right to vote; and the same right to hold office and participate in affairs of government. A naturalized person may not, however, become the President or Vice-President of the United States (86). When a foreign-born head of a family is naturalized, his wife and his

children, if they are residents of the United States, by his act automatically become citizens.

Until quite recently our naturalization laws were administered in an extremely careless manner. The naturalization of the foreigner was too often attended to by politicians seeking votes, and in the days just preceding an election aliens in our large cities were admitted in great numbers. Sometimes as many as fifty naturalization cases would be hurried through a court in an hour. Of course, under such circumstances, the merits of the applicants could not be inquired into carefully. The result was that many were admitted in a fraudulent manner, and many wholly unworthy persons were allowed to call themselves American citizens.

After more than a century of indifference and neglect, measures were at last taken for guarding the gates of citizenship and keeping out the unworthy and the unfit. The federal Bureau of Naturalization (p. 130) was established and given large powers of supervision in matters of naturalization. An important function of this bureau is to encourage and assist applicants for naturalization papers to prepare themselves for the day when the courts shall come to pass judgment upon their applications. Agents of the bureau in different parts of the country get in touch with aliens who are about to be naturalized, and inform them that before they can be admitted as citizens they will be required to show that they possess an elementary knowledge of our government and institutions. The agents do all they can to help the candidate acquire the necessary information, and through their activities hundreds of thousands of foreigners are reached and instructed in the leading facts of the American government.

Americanization. But a mere preparation for the tests of naturalization is not enough. After the outbreak of the war with Germany, it became plain that the alien prob-

lem was vastly more serious than had been supposed. The startling fact was revealed that of the 17,000,000 foreigners then among us nearly 6,000,000 were such complete strangers in America and cared so little for us that they had no desire to become citizens of the United States. Millions of them could neither understand nor speak our language. In New York City alone there were more than half a million men and women who could not speak, read, or write English. In respect to our government and laws and traditions they were, of course, in a woeful state of ignorance.

So the presence of these millions of aliens involves more than the problem of naturalization: it involves the problem of Americanization. The foreigner must be assimilated into the American life of the community in which he lives. He must be taught to speak the language of Americans; he must learn to live in the American way; he must acquire a knowledge of American government and of American institutions; he must be indoctrinated in American ideals and acquire an affection for America itself. In brief, our alien must become an American through and through, if he is to get the best from America and if America is to get the best from him.

QUESTIONS ON THE TEXT

1. Give an account of the extent and nature of the immigration of recent years.
2. What has been the history and policy of our government in regard to immigration? What restrictions have been placed upon the admission of immigrants?
3. What can you say of the benefits of immigration?
4. What are the chief steps in the process of naturalization? What are the rights acquired by naturalization? Give an account of the achievements of the Bureau of Naturalization.
5. What problem does the presence of the alien involve? What do you understand by the term *Americanization*?

SUGGESTIVE QUESTIONS AND EXERCISES

1. Prepare a chart showing graphically the annual immigration into the United States since the year 1900.

2. Prepare a chart showing graphically the annual immigration of the following races since 1900: Irish, English, French, German, Italian, Norwegian, Swedish, Polish, Russian, Serbian, Danish.

3. Are there many aliens in this community? If so, to what races do they chiefly belong?

4. Has an effort been made in this State to Americanize the alien population? If so, describe what has been done.

5. Is there Americanization work in which you could engage with profit to the community and to the country? If so, give an account of what you could do.

TOPICS FOR SPECIAL WORK

1. The Immigration Problem: Elwood, 211-245.
2. Control of Congress over Immigration: Munro, 255-256.
3. Effect of Immigration on Cities: Munro, 575-576.
4. Immigration: Beard, 387-390.
5. Naturalization: Gettell, 309.

XLI

TRANSPORTATION

We now turn to the subject of domestic commerce. This is a topic of the highest importance, for the internal trade of the United States is in its magnitude vastly greater than the foreign trade. Since the power of government over domestic commerce extends both to the goods exchanged and to the agencies of transportation, the regulation of domestic commerce must be treated under two distinct headings—namely, the regulation of commercial transactions and the regulation of transportation. In this chapter the subject will be the regulation of transportation.

Interstate and Intrastate Commerce. In order to understand the subject before us, we must learn to draw clearly the line that separates interstate from intrastate commerce. Broadly speaking, when a commercial transaction begins in one State and ends in another, that transaction is a subject of interstate commerce; but when a commercial transaction begins and ends in the same State it is a subject of intrastate commerce. When a merchant ships his goods from a point in a State to a point within the same State, he engages in intrastate commerce; when he ships them to a point outside of the State, he is engaged in interstate commerce. A railroad that has its termini and the whole length of its tracks within the State cannot be regarded as being engaged in interstate commerce, but a railroad that has its termini in different States must be so regarded. A river lying wholly within a State and having no connection with bodies of water extending beyond the boundaries of the State—a thing that rarely ever occurs—is an instrument of intrastate commerce; but a river wholly within a State connecting with navigable waters that extend beyond the boundaries of

the State is regarded as an instrument of interstate commerce. Does a certain commercial act or a certain instrument of commerce, a river, a canal, a railroad, concern one State or more than one? If it concerns one State only it is an affair of intrastate commerce; if it concerns more than one State it is an affair of interstate commerce. With this explanation we may pass to the principal theme of the chapter.

Highways. The framers of the Constitution gave Congress complete power to regulate commerce between the States (47), but the power of the State over intrastate commerce was left untouched. The State, therefore, has charge of intrastate highways, railroads, and canals.

Of the means of transportation the most important are the highways. Almost every movement of freight or passengers begins upon a common highway, upon a paved street, or upon a country road. In cities the construction and maintenance of roads and streets and bridges is a function of the municipal government. In rural districts the construction and maintenance of the highways is in some States a distinct function of local government—of the county or village or township. In many States, however, the local government coöperates with the State in the building of highways. Thus, in Pennsylvania the State coöperates with the counties and townships in the building of certain classes of roads known as State-aid highways, the State paying a part of the cost of such highway, the county a part and the township a part.

Since the appearance of the automobile and the motor-truck, highways have come to have more than a local interest and their control has become more and more a matter of State concern. In an increasing number of States, highways to a greater or less extent, are being taken out of the hands of the local governments and are being placed under the control of the State authorities. Along with the movement toward State control there has been an increase in

the amount of money contributed by the State for highway construction and maintenance. In many cases the sums appropriated by the State legislatures for the support of the highways runs into the millions, and in not a few States the bonds issued for purposes of road-building runs into the tens of millions. It was estimated that at the beginning of 1920 there would be funds amounting to \$600,000,000 available for highway construction in the United States.

For the management and supervision of highways there has been created in every State a central agency, usually known as the State Highway Commission. For the efficient performance of its work the commission employs a force of capable civil engineers, draftsmen, and road-builders. In some States the Highway Commission not only coöperates with the local authorities in the matter of highway improvement, but in addition contracts and maintains outright a system of State roads. In some cases the Highway Commission exercises an absolute control over several thousand miles of State highways.

In recent years the federal government has been coöperating with the State in matters of highway improvement. Under the Federal Aid Roads Bill, enacted in 1916, appropriations are made by Congress for highway improvement throughout the United States. The money thus appropriated is divided among the forty-eight States, each State receiving a sum apportioned in the following manner: one third in the ratio that the population of each State bears to the population of all the States; one third in the ratio that the area of each State bears to the area of all the States; and one third in the ratio that the mileage of rural-delivery routes and star routes in each State bears to the total mileage of rural-delivery routes and star routes in all the States. As a condition of receiving its portion of the federal appropriation, each State must spend out of its own treasury every year as much money as it receives from the national treasury, and must maintain a State Highway



MAP SHOWING THE STATE HIGHWAY SYSTEM OF CALIFORNIA

Commission with which the federal government may coöperate. The Federal Aid Roads Bill is administered by the Bureau of Public Roads, one of the bureaus in the Department of Agriculture. For the fiscal year 1920 the federal appropriation for road improvement was \$95,000,000.

Railroads. Next to the highways, steam railroads and electric car lines are the most important instruments of transportation. Ordinarily, the electric car lines within a city come within the regulation of the State under its power over intrastate commerce, although many of the interurban lines cross State lines and are therefore brought under the federal power. Most steam railroads do an interstate business, although not a few have their terminals inside the boundaries of a State. It must be understood, however, that, even though a railroad has the whole length of its tracks within a State, it becomes subject to federal regulation the moment its activities involve it in interstate business.

The intrastate traffic of railroads is sufficiently heavy to demand a large share of attention upon the part of the State. In virtually every State there is a State Railroad Commission, or Public Utilities Commission, having large powers of supervision and control over the intrastate business of the railroads. These State commissions see that the railroads do not favor one locality or one individual at the expense of another; they cause railroads to publish their rates; they supervise the construction of crossings; they compel the railroads to conform to the constitution and the laws of the State. In a number of States the Railroad Commission (or the Public Utility Commission) fixes the rates a carrier may charge between two points located within the boundaries of a State. When fixing intrastate rates, however, a State must not do anything that will result in discrimination against places located in another State, and it must not place an unjust burden upon interstate transportation.

The Interstate Commerce Commission. The great problems of transportation are of an interstate rather than of an intrastate character. The power of Congress over interstate commerce is comprehensive and far-reaching. It extends not only to the instruments of commerce,—to canals and vessels and railways and telephone and telegraph lines,—but to the persons engaged in interstate trade, and even to the articles of commerce themselves.

Although Congress possessed this power from the beginning, nearly a hundred years passed before the power was brought into vigorous use. In 1887 Congress, for the purpose of remedying evils that had been creeping into railroad management, established the Interstate Commerce Commission (p. 130) and clothed it with some substantial powers. The creation of this commission was the first important step in a movement that at last resulted in bringing the railroads under the complete control of government.

Under the law of 1887 the Interstate Commerce Commission was given power to compel railroad officers to produce their books and give testimony when called upon to do so; to take notice of violations of the law and to order the violator to desist from his illegal acts and fine him if he persisted in them; to provide a uniform system of railway accounting; and to obtain from each road an annual report of its operations and finances. The law creating the commission declared that freight and passenger rates should be just and reasonable; that there should be no discrimination between persons or between localities; that there should be proper facilities for the interchange of traffic between connecting lines; that free passes should not be issued; and that railroads should print and make public their freight and passenger rates. In respect to the all-important subject of rate-fixing the language of the law was vague and indefinite. When the question respecting the power to fix rates was at last settled (in 1897) in the courts, it was found that Congress had not given the Commission

such power as would enable it to fix effectively the rates that railroads should charge.

But the question of rates was bound to come up again. It came up in 1906, when Congress gave the Commission, upon the complaint of an interstate shipper (or passenger), the power to do away with a rate that it regarded as unjust or unreasonable, and to fix a new rate that it regarded as just and reasonable. The law broadened the term "commerce carrier" so as to bring under the power of the commission not only railroads but express companies, sleeping-car companies, and pipe-lines carrying oil.

The law of 1906 did not bring shippers the relief that was expected. Accordingly, in 1910 Congress again came forward with a law that went further in the regulation of railroads than any that had preceded. Under the law of 1906 the Commission could change rates only after complaint was made by a shipper. The law of 1910 went a step further—and it was a very long step indeed—and gave the Commission power to make investigations upon its own motion and with its own agents, and if it found certain rates unreasonable and unjust it was authorized to change them, even though shippers had made no complaint. Moreover, under the law of 1910, proposed new rates could be suspended in their operation by the act of the Commission, and if they were found by that body to be unjust or unreasonable they could not go into operation at all.

Thus it may be seen that the law of 1910 had very sharp teeth. Under it the power of the Commission to regulate rates was virtually complete. Still, in all cases the railroads could appeal to the courts of the United States and the decision of the Commission could be overruled if it were found that the rates in question were unjust or unreasonable.

Transportation Act of 1920. In 1918 the railroads were taken over by the government as a war measure, and for two years they were under federal control. In 1920 they

were returned to their owners. The law terminating federal control—known as the Transportation Act—provided that the Interstate Commerce Commission should divide the railroads of the country into rate-making groups, but for a period of two years the rates must be high enough to yield a net operating income of at least $5\frac{1}{2}$ per cent. on the value of the railroads within each group.

This guaranty of a minimum rate of profit was made in order to strengthen the credit of the railroads, so that they might be able to borrow money sufficient for their needs. Profits above 6 per cent. were to be divided evenly between the road earning the excess profit and the government, the government's share going into a pool, or common fund, for assisting the weaker lines. The law thus undertook to compel the more prosperous lines to assist the weaker ones. The law of 1920 also gave the Interstate Commerce Commission power to regulate the bond issues of railroads, a power that it ought to have had much earlier. For many of the evils attending railroad management have grown out of the unwise and unregulated issuance of bonds.

The Transportation Act created a Railway Labor Board consisting of nine members, to be appointed by the President. Three of the members of the Board must be representatives of the railroad workers, three of the railroad officials, and three of the general public. The central office of the Board is to be located in Chicago. The salary of each member is \$10,000 a year. The Board, when called upon to do so, may, after investigation, fix just and reasonable wages and salaries for railroad workers; but if its rulings are not complied with, if the workers refuse to accept the wages fixed by the Board and strike, the trains must stop running. For there is no penalty for violating a ruling of the Board. When a decision of the Board is disobeyed, its only recourse is to make a public statement and rely upon public opinion to give sanction to its findings.

QUESTIONS ON THE TEXT

1. Distinguish between interstate and intrastate commerce.
2. To what agencies of transportation does the power of the State extend? Give an account of highway control. What are the leading provisions of the Federal Aid Roads Bill?
3. Give an account of the intrastate control of railroads.
4. To what agencies of transportation does the power of Congress extend? Why was the Interstate Commerce Commission created? What were the powers of this commission under the law of 1887? under the law of 1906? under the law of 1910?
5. What are the leading provisions of the Transportation Act of 1920? What is the composition of the Railway Labor Board? What are the powers of this board?

SUGGESTIVE QUESTIONS AND EXERCISES

1. What does the constitution of this State say about commerce?
2. What are the constitutional provisions in this State in reference to railroads? in reference to roads?
3. Prepare a five-minute paper on the value of good roads.
4. Does this community suffer on account of bad roads? If so, in what way does it suffer?
5. Prepare a five-minute paper on the commerce of your State, naming the principal articles of its commerce, describing its commercial centers, its highways, its railways, and its waterways.
- ⑥ Name six great railway systems engaged in interstate commerce.
- ⑦ Do you think the federal government should assist in road-building? Do you think it should own and operate the railroads?
8. How much money did the federal government spend last year on the improvements of rivers and harbors? What share of this money did the State receive?
9. What effect has the Erie Canal had on the commerce of the United States?
- ⑩ Examine the map of the United States and determine where canals beneficial to commerce might be constructed. What would be the probable effect on commerce of a canal connecting the Mississippi River and the southern waters of Lake Michigan? From what quarter would opposition to such a canal come?
11. Name the great inland centers of commerce in the United States. Describe how the commerce of each may have been influenced (1) by rivers, (2) by canals, (3) by roads, (4) by railroads.
- ⑫ Debate this question: The telegraph business should be conducted by the post-office department.

TOPICS FOR SPECIAL WORK

1. Motorized Highways: Cleveland and Schafer, 358-381.
2. The Railroad Problem: Cleveland and Schafer, 382-396.

3. Transportation: Carver, 233-244; Thompson, 154-166.
4. Government Control of Railroads: Bullock, 361-372.
5. The Power of Congress to Control Interstate Commerce: Kaye, 483-485.
6. Municipal Railway Regulation: Zueblin, 30-54.



XLII

CORPORATIONS

When considering the commerce power in its relation to business transactions, we find ourselves chiefly concerned with the subject of corporations, for it is through the agency of corporations that the great volume of business is transacted. We have already learned what a corporation is and what the characteristic features of a corporation are (p. 65). We have also learned that corporations are either public or private, and our study of municipalities was a study of the public or political corporation. We shall now take up the subject of the private corporation, and learn of its place in the modern business world, and of the governmental control to which it is subjected.

The Corporation in Modern Life. To-day the corporation is one of the most important factors of civilization. Corporations employ five sixths of the labor in our mills and turn out six sevenths of the product. Corporations supply us with the fuel we burn; they spin and weave the cloth we wear; they control the manufacture and sale of much of the food we eat; they supply the furniture in our houses, the dishes on our tables, the utensils in our kitchens, the books in our libraries, the tools in our shops, the implements on our farms; they lend us money and they invest our money for us; they insure our lives; they carry us from place to place on trolley lines and railroads and steamboats. In whatever direction we turn in the financial or commercial or industrial world, we meet the private corporation.

How Corporations are Created and Controlled. The charters (p. 65) under which corporations conduct business are nearly always granted by State authority. The

Constitution of the United States has no specific provisions in reference to corporations, yet Congress can and does grant charters to corporations organized for carrying on enterprises that come within the range of federal authority. For example, Congress, under its power to regulate currency, has granted charters to the national and federal reserve banks; under its power to establish post roads (51), it has granted charters to transcontinental railway companies; under its power to regulate foreign commerce, it has established a corporation for the building of ships. As a rule, however, the creation of corporations is a State function.

The power to regulate and control corporations is divided between the State and the federal government. A corporation engaging in interstate business is subject to the federal power; but a corporation whose business is carried on exclusively within a State is subject only to the power of the State. Since virtually all corporations engage to a greater or less extent in interstate business, the power of the federal government to control and regulate corporations is very extensive.

Growth of the Trusts. Although the power of the federal government over interstate business existed from the beginning, the hand of Congress was not felt by industrial corporations until late in the nineteenth century, after the trust had made its appearance. About 1880 corporations began to combine in order to protect themselves against the ravages of competition. For many corporations had now become industrial giants, and when they met in the market as rivals competing for trade they fought like giants. The competition was so fierce and disastrous that it played havoc with profits. At first an effort was made to stifle competition by means of the *pool*. Several corporations engaged in the same business would place the marketing of their products under a central management, and would agree upon a uniform scale of prices and upon the amount of

goods that each separate corporation was to produce and sell. Under this arrangement there was no higgling of the market; the buyer was held strictly to the prices fixed by the pool. The intention of the pool was plainly to kill competition and establish a virtual monopoly.¹ Now, monopoly is not only contrary to the constitution of most of the States, but it is also contrary to the instincts of the American people. So the pool was declared illegal, and combinations of this kind were dissolved.

Next the corporations resorted to the trust-agreement. The combining companies deposited their stocks with a central board of trustees and received in exchange trust certificates. The trustees managed the business of the uniting companies, fixing prices and controlling the output of each constituent corporation. For certain kinds of transactions the trust-agreement is historic and strictly legal; but as an industrial combination it was only the pool in disguise. It was monopoly, and was so declared by the courts. So the trust-agreement, like the pool, was driven from the industrial world.

But the corporations were not to be thwarted. They still continued their efforts to avoid competition by means of combination. A corporation could not combine outright with another corporation within the same State, for nearly all the States forbid such a combination. Corporations in different States could not combine without the consent of each of the States in which it was desired to effect the combination, and this consent could not be obtained. How, then, could the corporations combine? A law of New Jersey passed in 1889 provided a way. This law permitted the formation in New Jersey of corporations that should have the power of purchasing the stock and property of any other corporation engaged in any kind of business in any State (excepting New Jersey) or in any country. Here was the opportunity the corporations were seeking. A cor-

¹ A monopoly is an exclusive privilege to deal in or control the sale of certain things. Congress grants a monopoly to authors and inventors (52).

poration, by organizing in New Jersey and securing the stocks of the corporations that it wished to bring into a combination, could become the owner of those corporations, and could then, of course, control both the prices of their goods and the amount of goods produced. And this was what was done. Corporations that wished to combine merged and blended their interests into one giant holding corporation, a corporation of corporations, a trust, so called. Other States followed New Jersey in granting liberal charters to corporations, and under the new laws the combination of corporations proceeded on a scale so startling in its proportions that it seemed as if practically the whole field of industry would be brought under the control of the trusts.

Advantages and Disadvantages of Trusts. The trusts flourished because, as producers of goods, they had certain advantages over the smaller companies. Their chief advantage lay in the direction of economy in production. They had the best equipped establishments; their plants were located with the view of reducing freight expenses; they made use of only the most desirable patents; they carried the division of labor to the highest point of efficiency; they saved large sums in office expenses and in expenses of salesmanship. In these and other ways they reduced the cost of production to the lowest possible point.

But it could not be denied that the trusts were the source of many evils. For one thing, they frequently drove competitors out of business by selling at a temporary loss, and as soon as they gained possession of the market they raised their prices to a profit in excess of that possible under competition. Then they "watered" their stock; that is, they authorized and floated stock far in excess of the cash value of their property. The attempt of the trust to continue in hard times the dividends upon a large bulk of "watered" stock placed an unnecessary burden upon consumers and laborers—upon the consumer in the form of high prices;

upon the laborer in the form of lower wages. But the most serious charge against the trusts was that they led to a dangerous concentration of wealth. For never in all history had money flowed into the pockets of individuals in streams so large as those that flowed into the pockets of the trust magnates.

The Federal Government and the Trusts. In order to check the onward march of the trusts, Congress in 1890 passed the Sherman Anti-Trust Act. This famous law declared: "Every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce among the several States or with foreign nations, is hereby declared illegal. Every person who shall monopolize or attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of the trade or commerce among the several States or with foreign nations shall be guilty of a misdemeanor punishable by fine or imprisonment or by both." It further declared that any person who should be injured in his business or property through the unlawful action of a trust should be entitled to recover threefold the damages sustained.

Statesmen hoped that the Sherman Act would curb the trusts and restore competition; but they were disappointed. The forces of concentration were not checked. At the opening of the twentieth century nearly one third of all industries, excluding that of agriculture, had been brought under the control of the trusts. Vigorous efforts were made by the federal government to enforce the Sherman Act. Suits were brought against the oil trust, the steel trust, the agricultural implement trust, the tobacco trust, and others; but the net result of this legal warfare was small. The barrenness of the anti-trust crusade was seen in the case of the oil trust.

In 1911 the Supreme Court of the United States decided that the Standard Oil Company was violating the Sherman Act and that it must be dissolved; that it must relinquish

its control over the constituent companies, of which there were thirty-three, and give to each of these minor companies its proportionate share of the stock. This was done, and it was thought that a great victory had been won over the oil trust. But it was not a very useful victory, for the small group of men who had controlled the consolidated company was composed of the very men who were to control the several independent companies that had been compelled to sever their relations with the trust. Under such conditions of ownership, anything like vigorous competition was out of the question.

In 1914 Congress came forward once more with measures designed to lubricate the wheels of competition. Declaring unfair methods of competition to be unlawful, it established the Federal Trade Commission (p. 130), and gave it power to prevent persons, partnerships, and corporations (excepting banks and railroads, for these were governed by other agencies) from using unfair methods in trade. This commission hears the complaints of business men who are suffering by reason of the dishonest practice of their rivals. Among the complaints to which it may give heed are false advertising, price discrimination (selling to one person at one price and to another at another price), bribery of employees, misbranding of goods, rebates, and the like.

And what does the commission do with the complaints? If, after investigation, it has reason to believe that a complaint is just, it orders the offending party to desist from the unfair practice with which he is charged. If the offender obeys the order of the commission, that is the end of the matter. If he does not obey, he is liable to be brought before a federal court, and if found guilty to be punished if he does not desist from the unfair practice. It will be observed that there are a good many "ifs" here, and that a good many things have to be done before the wrongdoer can actually be punished for his offense.

At present (1920) the power of the Federal Trade Com-

mission is greatly limited, but its arm can be strengthened by Congress. The Interstate Commerce Commission at first could do little in the way of controlling the railroads; but as the years passed Congress gave it more and more power, until at last it was vested with authority to fix even the rates that carriers might charge. So, too, it may come about that the powers of the Federal Trade Commission will be increased, and that some day it will become one of the most powerful agencies of the federal government.

The law creating the Federal Trade Commission was quickly followed by the Clayton Trust Bill. This law supplements the Sherman Act and is aimed directly at monopoly. The Clayton law makes it unlawful for any concern to discriminate in price between different purchasers where the effect of such discrimination is substantially to lessen competition or create a monopoly in any line of trade; it forbids any corporation from acquiring the whole or any part of the stock of another corporation where the effect of such acquisition may substantially lessen competition between the corporation whose stock is acquired and the corporation making the acquisition; it forbids the interlocking of directorates; that is, it forbids directors in certain classes of corporations to serve as directors in corporations conducting the same line of business. The law, however, declares that the labor of a human being is not a commodity or article of commerce, and labor unions and farmers' organizations, when they have no capital stock and are not conducted for profit, are exempted from the operations of the law.

State Governments and the Trusts. The federal government has not been alone in waging war upon the trusts. For in many cases the State government has attempted to stem the tide of monopoly. For example, in Ohio a trust is defined by the law to be a combination of capital, skill, or acts, by two or more persons, firms, partnerships, cor-

porations, or associations of persons, for any or all of the following purposes:

1. To create or carry out restrictions in trade or commerce.
2. To limit or reduce the production of a commodity.
3. To increase or reduce the price of a commodity.
4. To prevent competition in the manufacture or sale of a commodity.
5. To enter into an agreement not to sell a commodity below a fixed value where such an agreement precludes free and unrestricted competition in the sale of the commodity.

Thus defined, the trust in Ohio is declared unlawful against public policy, and void. A violation of the anti-trust law is a conspiracy against trade, and a person engaged in such conspiracy is liable to fine and imprisonment. All together, more than thirty States have laws designed to control the trusts.

The Trust Problem. But it cannot be said that the trusts have been brought under control. In spite of anti-trust laws and anti-trust agencies, combination still goes on, monopoly still thrives, and the trust problem is still unsolved. What solution is there for this difficult and perplexing problem? When thirty years of effort to solve it has brought such small success, is there any hope that it can ever be solved? Must competition die and monopoly be allowed to gain the mastery in the business world?

These questions are cause for deep concern, but they need not cause despair. We can still rely upon the efficiency of government and law. The federal arm will always be strong enough to bring a corporation, however powerful it may be, to terms. And herein lies our hope; the law may always be kept supreme. We need not fear the trusts as long as we know they can be compelled to obey the law. Keep government strong enough to apply remedies, and

remedies doubtless will in time be found. Indeed, they *must* be found if competition in business is to live.

QUESTIONS ON THE TEXT

1. Give an account of the part played by the corporation in modern life.
2. From what source do corporations receive their power?
3. Tell the story of the growth of trusts.
4. What are the advantages and disadvantages of trusts?
5. What efforts have been made by the federal government to control the trusts?
6. What efforts have been made by the States to control the trusts?
7. What can you say of the trust problem?

SUGGESTIVE QUESTIONS AND EXERCISES

1. Give illustrations of partnerships existing in this community; of corporations; of trusts.
2. A local tinner charges 25 cents for a pan that you can buy from a trust for 23 cents: would you buy your pan from the local tinner or from the trust?
3. What does the constitution of this State say about corporations? about trusts?
4. If it were shown that the trusts benefit society in material things, but dwarf individuality, what would be your attitude toward trusts? Does society exist for your benefit, or do you exist for the benefit of society?
5. Name five of the largest industrial organizations in the United States. What effect have these combinations had upon the prices of the articles they produce?
6. Has this State passed an anti-trust law? If so, has this law accomplished its purpose?

TOPICS FOR SPECIAL WORK

1. The Organization of Business: Carver, 168-180.
2. Confederations: Bullock, 155-159.
3. Federal Control of Trusts: Kaye, 492-497.
4. The Organization of Industry: Thompson, 85-97.
5. Government and Production: Thompson, 183-193.

meaning

XLIII

CONSERVATION

A most important service of our government is to conserve the natural resources of the nation. What are the principal resources that come within the scope of a conservation policy? To what extent has our government engaged in conservation work? In what direction are the needs for conservation most pressing?

Meaning of Conservation. Conservation, as the word is used here, has reference to natural resources, and relates to the efforts made by government to preserve these resources from loss, decay, injury, or violation. Conservation does not mean, as is sometimes supposed, that the gifts of nature are to be securely locked up and withdrawn from use. (On the contrary, true conservation means the orderly development of the nation's resources with the view of using them freely.) But they must be used in a way that will bring the greatest benefits to the greatest number of people. No other country in the world is more bountifully supplied with natural resources than the United States. It has been the exploitation of natural resources that has put us in the front rank of nations. If we are to continue in the front rank we must conserve as well as exploit.

Scope of Conservation. Of the things that come within the scope of a conservation policy, land is the most important, for the earth is the mother of us all. For that portion of the land held under private ownership efforts at conservation must, for the most part, be made upon the initiative of the owners. But there are several hundreds of millions of acres held under public ownership. Over this vast national



domain government has a free hand to employ every means of conservation that will inure to the benefit of the public.

Next to the land, the forest, perhaps, is the natural resource of greatest concern; for the products of the forest are elemental necessities of civilized life. Here too there is an opportunity for the government to serve the people in a large way by applying the principles of conservation. For about one fourth of all the forest area in the United States is public property and is therefore under government control.

Our water resources also offer golden opportunities for conservation. If all the streams that are under government control were fully utilized with the view of preventing waste, millions of acres of land that are now arid and useless could be made to blossom as the rose, and many million horsepower of energy that is now dissipated and lost could be saved and set to work, turning wheels in factories and drawing trains. In carrying forward a conservation policy, therefore, the chief objects of the statesman's concern must be the land, the forests, and the water-courses.

Conservation of the Soil. The productive power of the soil is the greatest asset of our nation. The government at Washington recognizes this, and supports in a most generous manner a Department of Agriculture, whose efforts are directed chiefly to the promotion of agricultural interests. The services of this great department, with its numerous bureaus and its thousands of trained workers, are indicated in brief outline in another chapter (p. 427). In all the varied activities of the Department of Agriculture the central purpose is always the same, *viz.*, to increase the productive power of the soil and at the same time to cause the principles of conservation to be applied.

It would be difficult to overestimate the value of soil conservation; for to conserve the soil is to conserve the food supply, and there is no task more important than that of caring for the food resources of a great and growing

nation. This is a matter that heretofore has given Americans little anxiety. We have had enough to eat and more, and have been prodigal of our food resources. But the time has come when we must conserve and increase by sound economical methods the productivity of the soil.

Conservation through Reclamation. We must increase the area of our agricultural acreage. This can be done on a very extensive scale. For of the whole tillable area in the United States only about one third has been actually brought under cultivation. When, therefore, we shall have developed for agricultural purposes all the land that can profitably be utilized, our productive acreage will be three times as great as it is now.

The extension of our agricultural acreage will be achieved largely through the reclamation of arid regions and of swamp-lands. In the western States there are awaiting development millions upon millions of acres of land that is naturally fertile and capable of producing a variety of crops, but that is worthless because rain never falls upon it. Yet this land can be reclaimed for the use of man. The waters in the mountain streams can be stored in reservoirs and used for irrigating the arid wastes.

The governments of several of the States, and the federal government also, have availed themselves of this opportunity for conservation. In a number of the States of the far West extensive projects for irrigation have been carried to completion and millions of acres of arid lands have been reclaimed. The federal government maintains a Reclamation Service, which does all the things that are necessary to be done for storing up the water and making it available for irrigation purposes. The national reclamation policy has resulted in the annual production of crops worth more than \$100,000,000 on lands that a short time ago produced nothing. Moreover, the policy has resulted in the establishment of more than 200,000 people in prosperous and contented homes on farms, and an equal number in

the cities, towns, and villages that have arisen within the regions of the irrigated areas. Yet the work of reclaiming the arid lands has only fairly begun. When all the waters available for irrigation shall have been conserved, it will be possible to use them for reclaiming enough arid



MAP SHOWING THE LOCATION OF IRRIGATION PROJECTS IN
THE WEST

lands to supply a population of perhaps fifteen or twenty million souls.

The possibilities of conservation through the reclamation of swamp-lands are also very great. In the States of the Middle West and of the South there are more than 100,-

000,000 acres of swampy and wet lands. If collected in one place these lands would have an area greater than the combined area of Iowa, Illinois, and Indiana.

The swamp-lands, for the most part, do not come within the jurisdiction of the federal government. Their reclamation, therefore, is largely a matter of State concern. In many States laws have been enacted encouraging the draining of swamp-lands. In Michigan drainage improvements costing many millions of dollars have been constructed. In the Southern States more than 7,000,000 acres of swamp-lands have been reclaimed. Yet, as in the case of arid regions, the work of reclaiming the wet lands has only begun. It is estimated that if the swamp-lands were all drained the portion available for cultivation would be sufficient to make 1,000,000 farms of 60 acres each. Here, then, a well executed policy of conservation would result in providing support for another fifteen or twenty million souls.

Forest Conservation. Forest conservation is largely a matter of federal concern, although many States maintain governmental agencies for the protection of forests. Liberal provisions are made by Congress for the protection of our national forests and promoting their healthy development. For the development of the resources of these boundless stretches of woodland the Forest Service (a bureau in the Department of Agriculture) spends annually several millions of dollars and employs the services of several thousand forest workers. Its chief aim is to manage the forest-lands in the way best suited to make them of the most use to the most people. Through its efforts, lumbermen are encouraged to settle in the forests in places where timber may be cut and sold at a profit. Trees that have attained their full growth are sold to any one who will pay a fair price. But only the trees marked by an official forester may be felled, it being a policy of forestry management that younger trees shall be left standing in

order that the forest-land shall not be denuded. A most useful service of the foresters is to protect the forests from fires, for fire is often more destructive than the ax. Scattered over the forest domain are rangers who act as firemen, and who fight fires in the forest as promptly and as bravely as it is fought by trained firemen in cities.

While the federal Forest Service has done and is doing much to conserve the forest resources, it has not solved, and will of itself not be able to solve, the problem of forest conservation. For private owners hold more than three fourths of the timber supplies of the United States, and over private holdings the government has no control. But the situation is one that requires the firm hand of government. In the past we have exploited our forests in a shamefully wasteful and uneconomical manner, and the present rate of depletion of our forest resources is more than twice, probably three times what is actually being produced. So the forest problem is becoming acute.

"The situation," said the head of the Forest Service in his report for 1919, "necessitates a broad policy of forestry for the whole nation, which will include both an enlarged program of public acquisition of forests by the government, the States, and municipalities, and protection and perpetuation of forest growths in all privately owned lands which may not better be used for agriculture and settlement. The government and the States must join hands in writing out a program that will bind into correlation the various public and private efforts for the protection and right handling of the forests."

Conservation of Water-Power. Attention has already been called to the importance of conserving the waters in the streams for purposes of irrigation. But these waters may also be conserved for the purpose of securing mechanical power. They may be stored up in reservoirs, and the power thus developed may be converted into electric currents, which may be used to do almost any kind of mechan-

cal work. On one of the railroads in the Northwest, trains for a distance of several hundred miles are drawn by electrical currents generated by the falling water of mountain streams. But, where there are hundreds of miles of railroad thus electrified, there might easily be thousands. For the total amount of potential hydro-electric energy in the United States is estimated to be nearly 50,000,000 horsepower. In the State of Montana alone there is probably 10,000,000 horsepower. If all the streams containing latent hydro-electric power were put to work, an annual saving of hundreds of millions of tons of coal could be effected. And it is for the saving of coal that the conservation of water-power should be adopted as a policy of government. For our coal resources are by no means inexhaustible. Indeed, experts estimate that, at the present rate of consumption, taking into consideration the increase that will come with increased population, all our anthracite coal deposits and all our *high-grade* deposits of bituminous coal will be exhausted within a hundred years.

The importance of conserving our vast supplies of hydro-electric energy is seen by our public men, and legislation providing for our water-power resources is being enacted. A bill recently passed by Congress—the Jones Bill—creates a water-power commission, to which is given authority over all matters coming within the federal jurisdiction pertaining to the development of water-power in the public domains and in the national forests. The object of the law is to promote united action, together with economy of operation. The commission is granted authority to collect data concerning the utilization of the water-power resources of the nation, and it may issue to citizens of the United States, to corporations, to States, and to municipalities, licenses for operating hydro-electric plants, the licenses being given for a period of fifty years. The Jones Bill also encourages the building of headwater storage reservoirs to prevent floods and obtain water for irrigation purposes after being

used for the generation of power. Thus a comprehensive policy of water-power development has been instituted by Congressional action.

Some of the Practical Benefits of Conservation. It is to be hoped that the efforts of Congress in this direction will not be relaxed. For conservation is a serious problem and its solution should not be delayed. Already there has been too much procrastination and neglect. Only in recent years have our statesmen at Washington undertaken to guard our natural resources and conserve them for the use and benefit of the people. As late as 1907 a United States Senator could say:

“Hitherto our national policy has been one of almost unrestricted disposal of natural resources, and this in more lavish measure than in any other nation in the world’s history; and this policy of the federal government has been shared by the constituent States. Three consequences have ensued: First, unprecedented consumption of natural resources; second, exhaustion of these resources to the extent that a large part of our available public lands have passed into great estates or corporate interests, our forests are so far depleted as to multiply the cost of forest products, and our supplies of coal and iron ore so far reduced as to enhance prices; and, third, unequaled opportunity for private monopoly.”

From this description of our prodigality it would seem that to talk now of conservation is like talking of locking the stable door after the horse is stolen. But the case is not so bad as that. As we have learned, the natural resources still in the possession of the government have a value almost beyond computation, and if a firm policy of conservation is adopted and carried forward in earnest, this heritage in lands, forests, minerals, and water-power may be so administered that it shall be a source of good to all the people. And what practical benefits would arise

from a wise, fearless, and thorough-going policy of conservation? As a partial answer—and only partial, for the subject is vast—the benefits would be as follows:

(1) Our public lands, instead of being taken up in immense tracts by corporations or by rich individuals, would be parceled out in little farms and given to millions of small freeholders, the class of people that has always formed the backbone of the American nation.

(2) Land already under cultivation would be protected from the injury caused by soil erosion and would be made more productive through scientific methods of agriculture.

(3) The tillable acreage would be enormously increased by the reclamation of arid and swampy lands.

(4) The food supply would be greatly increased and the cost of living reduced.

(5) Waterways would be developed for navigation with results beneficial to transportation.

(6) Water-power would be utilized on a scale that would result in saving countless millions of tons of coal.

(7) The national forests would be so managed that they would not only assist in the conservation of the soil and of water-power, but would also supply us with lumber in larger and cheaper quantities, and thus assist in the solution of the housing problem.

QUESTIONS ON THE TEXT

1. Define "conservation" as the word is here used.
2. What are the principal natural resources that come within the scope of a conservation policy?
3. What are the two underlying purposes of the federal Department of Agriculture?
4. In what two ways may the areas of our farm-lands be extended through reclamation? Give an account of the activities of the Reclamation Service.
5. What efforts are made to conserve our national forests?
6. What are the possibilities of conservation as related to water-power?
7. Name some of the benefits that would flow from a comprehensive policy of conservation.

SUGGESTIVE QUESTIONS AND EXERCISES

1. What efforts at conservation have been made in this State?
2. What departments of your State government are engaged in conservation work? Tell the principal achievements of each department thus engaged.
3. What are the chief national resources of this State? Are any of them going to waste?
4. President Roosevelt once said: "To allow the public lands to be worked by the tenants of rich men for the profits of the landlords, instead of by freeholders for the livelihood of their wives and children, is little less than a crime against our people and our institutions." Are the lands in this State generally worked by the men who own them? Are there in this State any great tracts of land owned by corporations?
5. Point out the dangers of "absentee landlordism."
6. What railroads have received immense grants of the public land?
7. What opportunities are there in this State for the development of hydro-electric energy?
8. To what extent is profitable irrigation possible in this State?
9. What is the area of the swamp-lands of this State? To what extent has there been a reclamation of swamp-lands in this State?
10. Name some benefits of conservation in addition to those enumerated in the text.

TOPICS FOR SPECIAL WORK

1. Natural Resources as State Property: Reinsch, 265-271.
2. Conservatism in New York: Reinsch, 271-283.
3. Establishment of the Secretaryship of Agriculture: Learned, 292-342.
4. Land: Thompson, 114-129.
5. National Resources: Beard, 401-416.

XLIV

ELECTIONS

In a democracy there is no task of government that requires a more faithful and honest performance than the holding of elections, for it is through the election that the people express their will. On election day, therefore, popular government is really on trial. In this chapter let us acquire some sound ideas about this indispensable and all-important service of a representative government—the holding of elections.

Usefulness of Frequent Elections. Under a representative government the election is the all-important institution; all that is good and all that is bad in our political life flows through the ballot-box. To be present at the polls on election day, if possible, is the first duty of citizenship. We hear people complain of the frequency of elections. They tire of politics and grudge the time it takes to vote, and they wish officers were elected for longer terms so that election day would not come around so soon. Such people advance a most dangerous doctrine. If elections occurred only at long intervals, the people, absorbed in their private affairs, would gradually come to know and think and care less and less about their government, and they would grow more and more willing that responsibility for its management should pass out of their hands. This would be the straight road to despotism. Frequent elections, on the other hand, keep the minds of the voters fixed upon their officials and upon the doings of government, and in this way citizenship is kept vigilant and strong. It is politically wholesome to vote at least once a year. "Where annual elections end," said Samuel Adams, "tyranny begins." A long interval between elections would doubtless mean the decay of representative government.

Elections Conducted by State Authority. We have learned that the right of suffrage and the qualifications of voters are determined largely by State authority (p. 12). The holding of elections is also almost entirely an affair of the State. The only instance of the power of the federal government to participate in the management of elections is seen in the right of Congress to make regulations concerning the elections held for choosing Representatives (24). Under this clause of the Constitution Congress could doubtless provide for an almost complete control of the election of Representatives, but it has refrained from using its power to the fullest extent. It has been content merely to appoint a day on which the elections of Representatives shall be held, to limit the campaign expenditures of federal candidates, and to require the division of the States into Congressional districts, leaving all other matters to the State.

Registration. The real work of preparation for election day is accomplished by the voluntary action of political parties. One step in the work of preparation, however, is taken under the direction of government. This is the registration of voters.

All the States but two provide for a system of registration, by which the qualifications of those who wish to vote are ascertained several weeks before election day. When a person who has been duly registered presents himself at the polls as a voter, the election officials, with the registration book before them, have little trouble in satisfying themselves of his right to vote.

The Casting and Counting of the Ballots. In nearly every State the first Tuesday after the first Monday in November is general election day. On this day the voters repair to the polls, to elect whatever officers are to be elected, and to vote upon any questions that may be referred to the people. For convenience, counties and cities are sub-

divided into election districts or precincts, a precinct usually containing several hundred voters. The election is conducted by the election officers of the district, judges (moderators), and clerks, who are either elected by popular vote, or are appointed by a duly constituted authority,

The voting goes on during the hours of daylight, and in most of the States is conducted according to the Australian system. The voter enters a little booth and prepares his ballot while alone.¹ He makes a cross mark opposite each of the names of the candidates for whom he wishes to vote, folds his ballot in such a way that no one can see how he has voted, and, coming out from the booth, hands the ballot to an election officer, who, in the presence of the other officers, and in the presence of the voter, drops it into the ballot-box. Thus the voter, if he desires to do so, can cast his ballot in perfect secrecy. In many States a voter who is unavoidably absent from his voting precinct on election day is permitted to send his vote by mail and have it lawfully counted.

The counting of the votes begins in the evening, immediately after the polls are closed. The results of the election in the several precincts are sent to certain county (or city) officers, who determine the results of the vote in the entire county and issue certificates of election to the successful candidates. When State officers, or congressmen, or circuit judges, or presidential electors are voted for, county authorities send the results of the vote in the several counties to State officers, who determine the general result and issue certificates to the successful candidates.

Protecting the Ballot-Box from Corrupt Practices. In the polling-booth the people either justify their right to rule or they stamp democracy as a failure. For this reason the election should be the purest of political institutions. Election officers should be men of the highest character, and

¹ In several States voting machines have made their appearance and are used to a limited extent.

First. If you desire to vote a straight party ticket, make a cross X mark in the circle on the ticket you wish to vote and nowhere else on the ballot.

Second. If you prefer not to vote a straight party ticket, but wish to vote for a majority of the candidates on any party ticket, make a cross X mark in the circle as before, and then make a cross X mark in the square to the right of the names of such other candidates as you wish to vote for, found under any other party name.

Third. If you prefer not to vote any party ticket, then make the cross X mark in the square to the right of the names of such candidates as you wish to vote for and nowhere else on the ballot.

Fourth. If you desire to vote for a name not on the ballot, write the name in the blank column and make a cross X mark in the square to the right of such name.

If you tear, deface or wrongly mark this ballot, return it to the judges and receive another.



I desire to vote a straight Republican ticket, as shown by the cross X mark in the circle thereon, except as otherwise indicated by the cross X mark opposite the names of other candidates elsewhere on the ballot.



REPUBLICAN TICKET.

For President,
THEODORE ROOSEVELT.
For Vice-president,
CHARLES W. FAIRBANKS.

For Presidential Electors,

(And continuing in like manner as to all candidates on national ticket.)

STATE TICKET.

For Justices of Supreme Court for a term of six years,
WILLIAM E. SMITH. ☐

For Governor,
EDWARD W. HOCH. ☐

For Lieutenant-governor,
DAVID J. HANNA. ☐

(And continuing in like manner as to all candidates on state ticket.)

For Congressman, 6th District,
W. A. REEDER. ☐

For Senator, 33d District,
I. D. YOUNG. ☐

COUNTY TICKET.

For Representative, 88th Dist.,
A. C. MEAD. ☐

For County Treasurer,
HENRY VAN TILBORD. ☐

(And continuing in like manner as to all candidates on county ticket.)



I desire to vote a straight Democratic ticket, as shown by the cross X mark in the circle thereon, except as otherwise indicated by the cross X mark opposite the names of other candidates elsewhere on the ballot.



DEMOCRATIC TICKET.

For President,
ALTON B. PARKER.
For Vice-president,
HENRY GASSAWAY DAVIS.

For Presidential Electors,

(And continuing in like manner as to all candidates on national ticket.)

STATE TICKET.

For Justices of Supreme Court for a term of six years,
STEPHEN H. ALLEN. ☐

For Governor,
DAVID M. DALE. ☐

For Lieutenant-governor,
JOHN B. PARKS. ☐

(And continuing in like manner as to all candidates on state ticket.)

For Congressman, 6th District,
H. O. OATHER. ☐

For Senator, 5th District,
HENRY B. JUNEY. ☐

COUNTY TICKET.

For Representative, 88th Dist.,
GEORGE B. McKINNIE. ☐

For County Treasurer,
F. S. CURTIS. ☐

(And continuing in like manner as to all candidates on county ticket.)



I desire to vote a straight Socialist ticket, as shown by the cross X mark in the circle thereon, except as otherwise indicated by the cross X mark opposite the names of other candidates elsewhere on the ballot.



SOCIALIST TICKET.

For President,
EUGENE V. DEBS.
For Vice-president,
BENJ. HANFORD.

For Presidential Electors

(And continuing in like manner as to all candidates on national ticket.)

STATE TICKET.

For Justices of Supreme Court for a term of six years,
G. C. CLEMENS. ☐

For Governor,
GRANVILLE LOWTHER. ☐

For Lieutenant-governor,
A. ROESSLER. ☐

(And continuing in like manner as to all candidates on state ticket.)

For Congressman, 6th District,
W. F. LINTON. ☐

For Senator, 33d District,
No Nomination. ☐

COUNTY TICKET.

For Representative, 88th Dist.,
THOMAS HILL. ☐

For County Treasurer,
O. E. COURSEN. ☐

(And continuing in like manner as to all candidates on county ticket.)

BLANK COLUMN.

For President,

For Vice-president,

For Presidential Electors,

(And continuing in like manner with national ticket.)

STATE TICKET.

For Justices of Supreme Court, for a term of six years, ☐

For Governor, ☐

For Lieutenant-governor, ☐

(And continuing in like manner with state ticket.)

For Congressman, 6th District, ☐

For Senator, 33d District, ☐

COUNTY TICKET.

For Representative, 88th Dist., ☐

For County Treasurer, ☐

(And continuing in like manner with county ticket.)

A SAMPLE BALLOT FOR A GENERAL ELECTION

Tony

Mary Agnes
O'Connor

election laws should be the embodiment of justice and fairness. Corrupt practices at elections should be punished with the greatest severity, for a fraud upon the ballot-box is treason to democracy and should incur a penalty suitable to so great a crime.

In almost every State there are laws for preventing corrupt practices at elections. A *corrupt practice* embraces illegal voting, or any act that, in practice or design, tends to hinder or improperly influence an elector in the exercise of his right of franchise, so that his judgment is perverted and he fails to cast his vote in accordance with his desires. Among the practices designed as corrupt is illegal voting. Nearly all the States punish those who register or vote when they are not qualified electors, or who vote more than once, or who vote under an assumed name.

Another corrupt practice is intimidation. In most of the States it is illegal to attempt to control the vote of an elector or to prevent its being cast. Many States attempt to prevent employers from controlling the votes of their employees. Thus, in Missouri, New Jersey, Ohio, and Washington, it is a penitentiary offense for an employer to intimidate his employees in such a manner as to prevent them from voting in accordance with their real inclinations. Then, too, it is a corrupt practice to expend money during a campaign in a lavish and improper manner.

In some of the States the law specifies what expenditures are legal and what are illegal. Legal expenditures consist, in general, in the personal traveling and hotel expenses of the candidate, and in the expenses of printing, advertising, telegraphing, and the like. Illegal expenditures are such as relate to bribery, the treating and entertaining of electors, and betting upon the result of elections. In order to secure publicity, candidates are in many States required to make public an itemized statement of the amount of money spent for election purposes. If more has been spent than is permissible by law, the candidate is liable to a

fine and imprisonment. Candidates for election to either of the branches of Congress are required to make statements showing the amount of money they received for election purposes during their campaign, and also the amount of their disbursements. In the case of a member of the House of Representatives the expenses must not be more than \$5,000; in the case of a Senator they must not be more than \$10,000.

Bribery. The most persistent and dangerous enemy of honest elections is the bribe-giver. Bribery is as old as selfishness and ambition. Because the sons of Samuel took bribes (B. C. 1,100) ancient Israel was hurried into monarchy. Pretorian guards of Rome, seduced by gold, raised a usurper to the imperial throne (193 A. D.), and at once the glory of the greatest empire the world has seen began to grow less. In England bribery increased with the growth of representative government, and in Shakespere's time it was causing the hands of Englishmen "to shrink up like withered shrubs." Parliament enacted laws against bribery at an early date, but the laws were outwitted. Homely verses written two hundred years ago declare the truth, that mere legislation will not prevent bribery:

The Laws against Bribery provision may make,
Yet means will be found both to give and to take;
While charms are in flattery, and power in gold,
Men will be corrupt and Liberty sold.

In America, as in England, bribery has been fought in all the ways known to law-makers. In some States penalties against bribery are stated in the constitution; in others stringent acts for the prevention of corrupt practices at elections have been enacted. In all the States bribery is punishable as a crime, and in a few States the bribe-giver is made equally criminal with the bribe-taker. A civil officer of the United States convicted of bribery is removed from office (104).

Besides the opposition that government has directed against it, bribery is the object of much moral crusading. Anti-bribery societies exist for the purpose of prosecuting and convicting bribe-givers and bribe-takers; candidates offer themselves for election on anti-bribery platforms; the pulpit denounces bribery as bitterly as it was denounced by the prophets of old; the press exposes bribery and heaps scorn upon the guilty.

The fact that bribery thrives here and there in spite of law and public sentiment should not discourage the opponents of the evil. Bribery, like some other kinds of crime, is an ever-present foe, and the fight against it must go on and on. We must not make the mistake of thinking that legislation and denunciation and opposition are of no use, for they are of the greatest use. If it were not for anti-bribery laws and anti-bribery movements, if it were not for the ceaseless fight against bribery, the electorate would suffer an undermining at the hands of the bribe-giver that would doubtless lead to our downfall.

QUESTIONS ON THE TEXT

1. Why should the practice of holding elections at short intervals be continued?
2. Under what authority are elections held? To what extent does the federal government have authority over elections?
3. What are the purposes of registration?
4. Describe the usual method of casting and counting votes.
5. Name some of the things that are dealt with by the corrupt practices acts.
6. What can you say of the persistence of bribery in the history of politics? How does government deal with bribery? Why should the fight against bribery be continued?

SUGGESTIVE QUESTIONS AND EXERCISES

1. What does the constitution of this State say about elections? What does it say about bribery?
2. Should candidates for public office be compelled to give an account of their election expenses?
3. How much better is the bribe-taker than the bribe-giver?
4. Bring into the class for examination a ballot used at a recent election.

5. Name something that you as an individual can do to assist in preventing bribery.

6. What are the regulations in this State in reference to registration?

7. *The Short Ballot*. Many reformers urge the adoption of the "short ballot" at elections. Where the "short ballot" prevails, only the most important offices are made elective, and only very few offices are filled by election at one time. The purpose of the "short ballot" is to enable the voter to examine his ticket and make an intelligent choice of candidates. What are the merits of the "short ballot"?

8. In one of the States the person receiving a bribe is subjected to a penalty, but the one giving the bribe is specifically exempt from any punishment whatever. Is this a good way to fight bribery?

9. Give the dates for the holding of elections in this State.

TOPICS FOR SPECIAL WORK

1. The Short Ballot: Reinsch, 372-382; Jones, 225-232.
2. Campaign Expenditures and Publicity: Jones 314-319.
3. The Conduct of Elections: Holcombe, 205-239.
4. Bribery Laws: Reinsch, 428-432.
5. A Corrupt Practices Act: Kaye, 513-518.

"D. M. M."

XLV

EDUCATION

In all enlightened countries governments have found it wise either to supervise more or less closely or to control altogether the education of youth. So generally is this true that education has come to be regarded as a normal function of government. What place does public education hold in the life of the American people? By what governmental agencies are the schools controlled? How are they supported? In what direction is there need for educational reform?

Democracy and the Public School System. The growth of popular education in the United States has been coincident with the growth of democracy. During the colonial period, in several of the colonies encouragement and aid were given to public schools, but the masses of children were not reached. It was not until the people began to come forward as the real masters of government that provision was made for the education of all the children of a community. As democracy grew stronger public schools became more numerous, and at last it became the policy of every State to furnish free of charge an elementary education to every child within its borders. The movement for the education of the masses has met with astonishing success. There are to-day in the public schools of this land more than twenty millions of children preparing for the duties of citizenship under the guidance of more than three fourths of a million of teachers, at an annual expense of more than a billion of dollars.

Public Education Controlled by the State. Nothing is said in the Constitution about education. The States reserved to themselves the management of their schools. In

the constitution of each State provision is made for a public-school system. This provision is usually made in the broadest terms. The constitution of Massachusetts, adopted in 1780, declared that "wisdom and knowledge as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties, and as these depend upon the opportunities and advantages of education, . . . it shall be the duty of the legislature and magistrates in all future periods of this commonwealth to cherish the interests of literature and the sciences and all the seminaries of them; especially the University of Cambridge, public schools and grammar schools in the towns." Upon this broad constitutional foundation a magnificent and elaborate public-school system was slowly reared. The more recent constitutions are occasionally somewhat specific in reference to education, yet as a rule their language is broad and general, like that of the constitution of Massachusetts. It is a settled policy to leave the details of education to the legislature.

Education a Local Affair. As it has been the custom of constitutions to leave the details of educational policy to the legislature, so it has been the custom of the legislature to leave the details of school management to the local government. The legislature usually passes a general school law which provides for the election or appointment of certain school officers, and states in general terms the powers and duties of these officers. The State law may further prescribe the qualifications of teachers, and specify the manner in which text-books shall be furnished to pupils, the branches that shall be taught, the limits of the tax that may be levied for school purposes, and the ages between which children must attend school; for in most of the States education is compulsory. Further than this the legislatures usually do not choose to go in their control of the schools; they are content to leave many things to be attended to by the local authority.

In most of the States school management is a separate and distinct branch of public service. School officers are independent of other public officers, school elections are held on special days, school taxes are levied and collected distinct from other taxes. This is not always the case, but, speaking generally, school government is decentralized and local. Each community is permitted to manage its schools pretty much in its own way.

The School District. The school systems of no two States are precisely alike, and even within the same State there are sometimes several plans of school government in operation. Everywhere, however, there is a unit of school government, which we may conveniently designate as the *school district*. This district may be a small rural area, within which there is but one school-house and one teacher; it may be a township with several schools; it may be a city with numerous schools. In each district there is a governing body known by different names in different States, but most frequently called the school board.

The local board usually has large powers of control. It appoints teachers, locates and erects school buildings, makes rules for the guidance of teachers and pupils, selects the text-books, and sometimes prescribes a course of study. In many States the officers of the district fix the rate of taxation that is levied for school purposes. In the exercise of these important functions they are limited and restrained at certain points by State law, but very frequently these limitations and restraints do not bear heavily upon them.

School Supervision. In addition to the regular teaching force, there is maintained an elaborate system of superintendence. In the county there is the county superintendent (p. 185); in the city, the city superintendent; in the State, the officer usually known as the Superintendent of Public Instruction (p. 166). The powers of the county

superintendent and of the State Superintendent are, for the most part, chiefly of an advisory nature, although in some cases the county superintendent and the State superintendent are clothed with some substantial powers of control. In the case of the town or city superintendent, school superintendence means a control that is quite close and complete. When a town or a city has its own superintendent, the supervision of the county superintendent does not, as a rule, extend to the schools of the town or city. The spirit of local self-government, which is so strong when manifesting itself in school matters, makes it difficult for the superintendent from the outside to exercise real power within the district.

Common Schools, High Schools, Universities, and Normal Schools. The State first provides for a system of *common schools*, in which the fundamental branches may be taught. The curriculum of these schools includes reading, spelling, writing, arithmetic, grammar, geography, and history. Above the common schools there is in every State a system of *high schools*, in which pupils may receive instruction in the natural sciences, in literature, history, and civics, in the higher mathematics, and in the ancient and modern languages. To crown its educational system the State frequently maintains a *university* which its youth may attend without charges for tuition. To provide a supply of competent teachers for its common schools the State usually supports one or more *normal schools*. In Pennsylvania there are thirteen State normal schools.

Educational Activities of the Federal Government. In the Constitution of the United States not a word is said about education. This silence, however, has not prevented the government at Washington from engaging in a number of educational activities. Under its power to provide for an efficient army and navy (57) the federal government supports and controls two great training schools, the Military

Academy at West Point and the Naval Academy at Annapolis. In addition to these, it maintains at Washington an Army War College for advanced military students, and at Newport, Rhode Island, a Naval War College for advanced naval students. It also supports the Indian schools and maintains a supervision over the educational systems of our insular possessions.

Although the federal government has little to do with the actual administration of schools it nevertheless does much in an indirect way to promote educational interests throughout the country. For a great many years money has been taken from the national treasury for the support of first one and then another form of education. Congress has encouraged higher education in the State by generous grants of the public lands. It has been estimated that more than twenty millions of acres of federal public lands have been devoted to State colleges of agriculture and the mechanic arts. The total annual appropriations made by Congress for the support of agricultural, mechanical, and vocational education exceed \$6,000,000.

The most extensive educational interests of the federal government, outside of military training, lies in the direction of vocational education. In 1917 Congress enacted a law—the Smith-Hughes Act—providing for the promotion of vocational education, and the coöperation of the federal government with the States in the preparation of teachers in vocational subjects, the money appropriated by this act to be used in paying the salaries of teachers of agricultural subjects and of home economic subjects. The appropriations for carrying out the law rise annually until 1926, when the sum of \$4,000,000 will be available. Every sum of money contributed by the federal government must be matched by an equal amount contributed by the State. The execution of the law is given to a Federal Board for Vocational Education, consisting of the Secretaries of Agriculture, Commerce, and Labor, and three other persons appointed by the President. The Federal Board co-

operates in each State under some State agency of public education. This Board is also charged with the vocational training and the rehabilitation of men disabled in the military or naval forces, after their discharge from military service.

The chief educational officer of the federal government is the *Commissioner of Education*, who has charge of the Bureau of Education, a subdivision of the Department of the Interior. Owing to the fact that the educational function is a State affair, the duties of the national Commissioner of Education are confined almost entirely to the collection and publication of educational statistics and to the dissemination of educational literature. This federal bureau, however, has charge of the education of the natives of Alaska.

Educational Reform. The American public-school system is one of which any nation might well be proud, for our schools beyond doubt are among the very best in the world. Yet there is room for improvement. Indeed, in two directions at least there is a pressing need for reform. In the first place, our schools are not reaching all children of school age. In many communities—and they are not confined to one section of the country—illiteracy is rampant. Millions of children have been allowed to grow up without even having learned how to read, with the result that we have in our midst millions of men and women who have no means of access to the thought and impulses of our country, and who are poor workers and poorer citizens because of their ignorance, a menace to themselves and their neighbors.

In the second place, our schools are suffering because the salaries of teachers are too low. The service rendered by the teacher is of the highest social value, and the qualifications required for teaching can be met only by well trained, educated men and women. Yet the compensation of teachers is often smaller than that received by unskilled,

uneducated workers. As the result of low salaries, teachers by the hundreds of thousands have recently left their desks to take positions where the pay is better. In a vast majority of cases the vacancies were filled, of course, by teachers whose qualifications were not up to the mark. In truth, in thousands of cases the vacancies were not filled at all, because the salaries offered failed to attract teachers of any kind, good or bad. Thus the effect of low salaries was not only to lower the tone of the school but actually to close the doors of school-houses.

There should be no delay in remedying these two evils. Illiteracy should be promptly stamped out. For school-houses in America are as important as armies and navies. In a democracy the very life of the nation is dependent upon the intelligence of the masses. And those who train the young for a virtuous and intelligent citizenship should be well paid. Otherwise the schools will fall into the hands of bunglers and the nation will suffer irreparable loss.

QUESTIONS ON THE TEXT

1. Trace the growth of popular education in the United States.
2. Where is the authority for public education located? How do State constitutions usually treat the subject of education?
3. What is the attitude of the legislature toward the management of the schools? To what extent does the legislature control the schools?
4. Tell what you can about the school district. What are the powers of the school officers of this district?
5. Name the several supervising officers of a school system. When does the superintendent really control in school affairs?
6. Give an account of the manner in which public schools are supported.
7. Describe each of the several grades of schools supported at the public expense.
8. Give an account of the educational activities of the federal government. What are the duties of the United States Commissioner of Education?
9. In what two directions is there need for educational reform?

SUGGESTIVE QUESTIONS AND EXERCISES

1. Does the constitution of this State provide for free schools? Does it specify in reference to taxation for the support of schools?

in reference to the length of the school term? in reference to the subjects to be taught? in reference to the age of children who may attend?

2. Are children in this State compelled by law to attend school? If so, state whether the law is effective or not. If there is no compulsory law, state the reasons for and against the enactment of such a law.

3. Is a State school tax levied in this State? If so, how much revenue does it yield? How much per pupil is expended on education in this State? Compare this with the amount expended in adjoining States.

4. What is the governing body of this school district called? How is it chosen? What are the names of its members? Make out a list of its powers.

5. Bound this school district. How many pupils are within it? How much money is expended for education within this district? How much is this per pupil? Is this above or below the average in this State? Do the people of the district elect the school officers? Do they contribute the greater part of the taxes that go to the support of the schools?

6. What does the school do for you as an individual? What does it do for society? What does it do for government?

7. Make out a list of the duties that pupils owe to a school; a list of the duties that the school officers owe to the school.

8. (In some schools the faculty makes the rules, decides who has broken a rule, and punishes the offender. In other schools the students organize as a commonwealth, electing from their number (1) a *council*, which makes the rules, (2) a *court*, which decides when a pupil has violated a rule, and (3) a *governor*, who executes the order of the court. In these schools government resembles a democracy.) Draw up a constitution for the government of a school by its students, providing for the three departments, the election of officers and the distribution of powers. Should the terms of the student officers be for short or for long periods? What rules would be wise for the council to make in reference to tardiness? to whispering? to absence? to truancy? to cheating? to rudeness?

9. What advantages does a school derive from governing itself?

10. Does government in the school prepare for citizenship outside of the school?

TOPICS FOR SPECIAL WORK

1. The Educational Lessons of the Hour: Cleveland and Schafer, 212-243.
2. Higher Education: Zueblin, 211-227.
3. The Government of State Universities: Reinsch, 331-336.
4. Education and Social Progress: Ellwood, 371-387.
5. Public Education: Gettell, 518-519.

XLVI

LABOR

From time immemorial, the affairs of workingmen were a subject of governmental concern. With the growth of the factory system and the advance of the trade-union movement this concern grew deeper, and to-day one of the most important functions of government is to solve problems that arise in the world of labor. In this chapter we shall consider some of the problems that have arisen in connection with labor organizations. We shall begin the subject by taking a glance at the growth of the trade-union movement.

Growth of Labor Organizations. Workingmen's associations or trade unions, such as we have to-day, had no existence before the latter part of the eighteenth century. In the days when industry was in its simple form of organization, when almost every workman was a proprietor, there were few who could be classed as employees. A German scholar¹ informs us that in 1784 in the duchy of Magdeburg there were 27,050 independent masters and only 4,285 assistants and apprentices, and that about the same time in the principality of Würzburg there were 13,762 masters with 2,176 assistants and apprentices. That is to say, in more than five sixths of the industrial establishments of these two places the master carried on his work single-handed. As it was in Germany, so it was in England and America before the industrial revolution: the number of employees was extremely small. When it is remembered that apprentices and assistants usually lived in the home of the master and were treated as members of the family, it becomes still more apparent that under the old order of things there was no distinct line of cleavage between employers as a class and employees as a class.

¹ Karl Bücher, *Industrial Evolution*, p. 188.

The factory system brought about a complete change in the industrial condition of the workman. A craftsman was now the owner neither of the tools with which he worked nor of the articles which his craft fashioned; he was a hired man, an employee whose chief industrial interest was his wage. It was to be expected that employees would unite to advance their interests, and it was not long before workmen began to meet for the discussion of such subjects as wages and hours of labor. At first government handled these meetings with a severe hand. In 1799 the English Parliament passed a law making it a criminal offense to attend a meeting the purpose of which was to secure an advance in wages or to shorten the hours of labor. In 1817 under this act ten calico-printers in the town of Bolton were imprisoned for three months for simply *intending* to attend a meeting at which the subject of wages was to be discussed. Such injustice, however, was inconsistent with the spirit of democracy which was at that time beginning to guide the conduct of statesmen, and in 1824 the harsh law of 1799 was repealed, and working men were thenceforth permitted to combine for the promotion of their interests.

Workingmen now began to combine, not only for the purpose of putting up wages and shortening the working day, but for the advancement of all their interests. Those engaged in the same trade, or allied trades, united in a permanent association, called a trade union, the abiding purpose of which was to promote in every lawful way the general welfare of the associated members. Trade unions in England at first did not have smooth sailing, for rulers were at heart against them; but they steadily prospered, and in 1871 were formally recognized by an act of Parliament as legal organizations. This recognition caused them to flourish as never before, and to-day England is one of the strongest centers of trade unionism in the world.

The trade-union movement in America began about the same time it began in England, but it did not meet the

same fierce opposition. Its progress, however, was not altogether peaceful and undisputed. For many years the courts were inclined to regard the movement with distrust, and in more than one decision a combination that aimed to raise wages was pronounced to be an unlawful conspiracy. But trade unions were only one of the outgrowths of democracy and were bound to wax strong with the growing strength of the people. In 1870 New York, by statute, legalized the trade union, and in recent years the right of workingmen to combine has not been seriously questioned anywhere in the United States. In America, law and public opinion have been almost uniformly on the side of the trade union, and its growth here has been remarkable. More than five million workingmen in the United States are enrolled in trade unions.

Aims of Labor Organizations. The aims of labor organizations are usually clear and well defined. They strive for the social and intellectual as well as for the economic betterment of the working classes. They want the workingman to receive a wage that will enable him to buy a fair share of the good things of life, and they want the working day to be of a length that will give leisure for the enjoyment of the benefits of education, culture, and refinement. They advocate the abolition of child labor, because they want the children to attend school. They demand that work in factories and mines be done under sanitary conditions, because they regard the health of workingmen as a matter of supreme importance. In brief, they favor all movements that tend to elevate labor, and resist all movements that tend to degrade it.

The State and the Workingman. Under our system the regulation of labor is, for the most part, an affair of the State. The earlier State constitutions contained nothing about labor, because when they were framed there were no labor organizations and no labor problems. In recent

years the constitutions are inserting clauses pertaining to labor. The constitution of Wyoming declares: "The rights of labor shall have just protection through law calculated to secure to the laborer proper rewards for his service and to promote the industrial welfare of the State." The constitutions of California and Idaho forbid the employment of Chinese laborers upon State or municipal public works. The constitution of North Dakota declares that every citizen of the State shall be free to obtain employment wherever possible, and forbids the exchange of blacklists¹ between corporations. In Louisiana the constitution forbids the passage of any law fixing the wages of manual labor. Numerous other illustrations might be given to show that the States are beginning to introduce the subject of labor into their constitutions. In the field of State legislation the affairs of workingmen receive a very large measure of attention, as will be more fully explained in the next chapter.

The recognition of labor organizations by government is becoming quite general. Most of the States provide for the incorporation of trade unions, and a federal law permits national trade unions to be incorporated, provided they have two or more branches in every State and maintain headquarters in the District of Columbia. Besides giving them power to incorporate, several States have lately attempted to protect trade unions by making it a misdemeanor for an employer to discharge an employee for belonging to a labor organization. Several States have enacted laws providing that certain kinds of public work shall be performed only by labor unions.

Collective Bargaining. It is through the labor unions that workingmen are enabled to avail themselves of their full strength when they are bargaining with their employers for wages and hours of labor. When a single workman in an establishment employing thousands asks for higher

¹ Lists of persons objectionable to employers.

wages, he is not likely to receive as much consideration as would be shown to a similar request coming from all his fellow workmen united in a solid body. And it is in a united compact body that workmen are accustomed to make their wishes known to their employers. Under the trade-union system, instead of individual bargaining between employer and employee, there is *collective bargaining*. Representatives of the labor organization meet the employers, and there is higgling as to the price that shall be paid for labor; and when a bargain is struck it binds all parties, including every employee belonging to the organization and every employer who has been a party to the compact. In some instances this collective bargaining is conducted on a vast scale; agreements are entered into that affect not only a single establishment but whole industries.

Settlement of Labor Disputes. As long as collective bargaining is possible there is industrial peace; but when it fails, when employer and organized employees fail to come to an agreement, there is industrial war. In this warfare the chief weapon on one side is the lockout: the employer closes the doors of his establishment upon his employees in a body and refuses to give them any work to do. The chief weapon on the other side is the strike: the employees in body throw down their tools and refuse to do any work. In either case, whether it is the lockout or the strike that is brought into use, there follows a deadlock that is destructive of the friendly feelings that ought to exist between an employer and his employees. And there follows a cessation of production that sometimes works injury to millions of people who are in no way connected with the controversy. Even as these lines are being written the whole country is suffering because the bituminous mine owners and their employees have failed to come to an agreement as to wages and conditions of employment in the mines.

So vast have been the losses occasioned by strikes, and

so disturbing have been their effects upon society, that the government has been moved to provide means for their settlement. In about three fourths of the States there are laws providing for the settlement of industrial quarrels. Many of the States have established boards—called boards of conciliation or boards of arbitration—to settle, or to serve as channels for settling, disputes between employers and employees. The steps in the arbitration proceedings are as follows: (1) the dispute is submitted to a third party; (2) an investigation is made; (3) strikes and lock-outs are refrained from during the period of the investigation; (4) an arbitration award is made.¹

The arbitration provided by law is, as a rule, permissive and voluntary. In some States, it is true, the State board of arbitration *must* cause an investigation to be made, and in some States provision for the enforcement of an arbitration award is made in cases where the *representatives of both sides have agreed* to abide by the decision of the board. But in no State does the law say that either party to the suit *must* agree to abide by the award. In no State is there out-and-out compulsory arbitration. About all a board of arbitration can do, therefore, is to inquire into the cause of a dispute or strike, render a decision as to the merits of the dispute, and depend upon the power of public opinion to give its decision weight.

A Difficult Labor Problem. Can arbitration be made compulsory? After the several steps of arbitration have been taken and an award has been made, can the law say to the employer: "This is the award; accept it; let the wheels of your factory turn"? Can it say to a workman: "This is the award; accept it; take up your tools and go to work"? Here are questions that go to the very foundations of our social structure. To *compel* the employer to abide by the award and run his business in a manner prescribed by an outsider would seem to be doing violence to

¹ *Principles of Labor Legislation*, J. R. Commons and J. B. Andrews, p. 126.

property rights. For it would seem that the owner of a factory has a right to say whether it shall be kept running or not. To *compel* the workman to labor for wages that he has not agreed to accept would seem to be doing violence to personal liberty. For it would seem that, just as it is the right of the employer to lock the door of his factory and thus withhold his property from use, so it is the right of the workman to throw down his tools and thus withhold *his* property, that is, his labor. To deny him this right and to force labor upon him would, in the opinion of many, be to impose upon him involuntary servitude, which would certainly be violating the Constitution (149).

The considerations suggested above give rise to some exceedingly difficult questions relating to the workman's right to strike. Of the validity of this right there can be no doubt whatever: the strike is the workman's lawful weapon. But to what extent shall the exercise of this right be carried? Have policemen the right to desert their posts? May miners throw down their picks in the dead of winter and by ceasing to produce coal cause millions to freeze? Shall railroad employees by refusing to haul trains strangle transportation? The answer to the question about the policemen is not hard to give, for it is furnished both by the civic sense of mankind and by public opinion. The policeman is a *part of the government itself*; he is the public guardian of law and order; and his right to strike does not go so far as to allow him to expose society to the lawless deeds of criminals. But answers to the questions about the miners and the railroad workers are not easy to give; for the railroads are not, in the fullest sense, a part of the governmental machine, and the mines are in no sense a part of it. But railroads and mines must be kept in operation or the people will starve and freeze. What shall be done, then, when the right of the miners or the railroad men to strike comes into conflict with the rights of the public?

One State (Kansas) has attempted a solution of this

difficult question. It has passed a law that establishes a State Industrial Court, which has supervision over the manufacture and preparation of food products in any and all stages of the process, over the manufacture of clothing and all wearing apparel, over all mining and fuel production, and over the transportation of necessities. Suspension of operation in such manufactures or transportation is declared illegal, and if a labor controversy arises threatening the continuity of service, the Industrial Court may come forward and issue such orders as may be necessary to prevent a cessation of operations. If either or both parties to the controversy should refuse to obey the court's orders, the State is authorized to step in and temporarily take over the industry in question and operate it. An industry thus taken over is "impressed with a public interest," and during the period in which the State is in control strikes and lockouts are by law forbidden.

This Kansas law is an experiment. It may succeed or it may fail. But, whether it succeeds or fails, there can be no doubt that the experiment is a timely one. If this law fails, other experiments must be made until a way is found to protect the workman in the full enjoyment of his personal liberty, and at the same time to protect the public from the injuries inflicted by a suspension of basic industries.

The Federal Government and the Workingman. The Constitution is silent on the subject of labor. At the time it was drawn up there was no labor problem in America and it was entirely practicable to leave labor matters to be regulated by State authority. But in recent years the federal government has had a great deal to do with labor matters. In addition to the enactment of labor laws relating to such subjects as come within the scope of federal authority, Congress has established a number of governmental agencies designed to foster and promote the wel-

fare of wage-earners. The Bureau of Labor Statistics, in the Department of Labor, acquires and diffuses among the people much useful information on subjects connected with labor. The Children's Bureau, in the same Department, investigates and reports upon all matters pertaining to the welfare of children and child life, giving especial attention to the subjects of infant mortality, orphanage, dangerous occupations, and child labor. The federal Railway Labor Board, as we have learned (p. 337), has for its aim the settlement of disputes between the employees of railroads and the employers. The Secretary of the federal Department of Labor is authorized by law to act as mediator, and to appoint commissioners of conciliation in labor disputes, whenever in his judgment the interests of industrial peace may require it to be done.

Thus the influence of the federal government in the world of labor is already considerable, and its influence is likely to become greater. For many difficult labor problems remain to be solved. Of those awaiting solution many cannot be reached by the State because they are problems of an interstate character. These, of course, must receive the attention of Congress.

QUESTIONS ON THE TEXT

1. Give an account of the growth of labor organizations in England; in America.
2. For what purposes do workingmen combine?
3. To what extent is the subject of labor introduced into State constitutions?
4. What is collective bargaining?
5. What is industrial war? How does war of this kind affect the social welfare?
6. In what way have States attempted to settle labor disputes?
7. What difficulties stand in the way of compulsory arbitration?
8. Discuss the question of the workman's right to strike.
9. In what way has Kansas attempted to solve the problem of strikes and lockouts?
10. Enumerate the labor matters that have been dealt with by the federal government.

SUGGESTIVE QUESTIONS AND EXERCISES

1. Does the constitution of this State say anything about labor or labor organizations? about strikes or lockouts? about boycotts or blacklists?

2. Is there a bureau of labor statistics in this State? If so, secure a copy of the last report of its chief officers and find answers to the following questions: What strikes have occurred in this State during the past year? What per cent. of these were successful? Were any of the strikes settled by arbitration? What is the average daily wage of workmen in this State? Is this average increasing or decreasing? What does the commissioner of the bureau recommend in the way of legislation bearing upon labor problems?

3. Is there a board of arbitration in this State? If so, secure a copy of its report and ascertain what it is doing in the way of settling labor disputes.

4. In about one third of the States it is against the law for an employer to exact, as a condition of employment, an agreement from an employee not to become a member of a labor organization. Is it against the law in this State for an employer to exact such an agreement?

5. Show how a strike sometimes affects a great many more people than the strikers and their employers. Show how a great strike affects the business of the entire world.

6. If you were an employer of labor, do you believe you would be willing to sacrifice a little money for the sake of the happiness and comfort of your employees? Is it likely that the labor problem will ever be satisfactorily solved as long as both capitalists and laborers ignore moral considerations in their dealings with each other?

TOPICS FOR SPECIAL WORK

1. The Organization of Laborers: Carver, 400-408.
2. The Labor Unions: Dole, 349-367.
3. Labor Organizations: Bullock, 467-485.
4. Collective Bargaining: Commons, 91-166.
5. The Labor Problem: Thompson, 311-329.

XLVII

THE LAWS AND THE WORKINGMAN

In the last chapter it was stated that in the field of State legislation there are many laws relating to the affairs of workingmen. In this chapter an account of some of the most important of these labor laws will be given, and the principles that underlie legislation of this kind will be discussed.

Police Power. We have learned of the aims of organized labor (p. 376). Most of these aims have been achieved, or are achievable, by legislation that rests upon what is called the *police power* of government. This power does not refer to the authority exercised by a policeman in his enforcement of a law. It refers to the inherent power that a government possesses "to take such action and to pass such laws as may be deemed necessary for its own protection and to secure the safety, comfort, and *general welfare* of its citizens." This power is very broad and covers an indefinite and miscellaneous range of subjects. But it is not so broad and far-reaching that it can encroach upon rights secured or granted by the Constitution.

The police power has been held to include quarantine laws, fire and building laws, laws for draining marshes, licensing slaughterhouses, excluding paupers and immigrants, caring for the poor, regulating the construction of highways and bridges, prohibiting and abating nuisances, prohibiting lotteries, regulating the employment of women and children, ordering the destruction of infected houses and property. Indeed, the police power covers such an immense number of subjects that to enumerate them all would be next to impossible.

The exercise of the police power is mainly a State function. In the division of powers between the States and

the federal government, the safety, comfort, and general welfare of the people are subjects that are to be dealt with by the several States. It is true, the federal government may exercise the police power whenever, in the discharge of its regular functions, it may seem necessary to do so; but it is rarely that it does this. With one important exception—to be fully considered hereafter (p. 397)—the federal government, in accordance with the spirit of our political system, leaves the police power in its integrity to the States.

The Laborer is Worthy of His Hire. One of the subjects brought within the range of the police power is the wages of workingmen. Of the millions engaged in gainful occupations the vast majority are wage-earners, and it is regarded as good public policy for government to concern itself with the matter of wages. The laws permit the laborer to contract for whatever wage he may be willing to accept; he cannot be compelled to work for wages fixed by another. The wages earned by a laborer are in a peculiar sense his own. For in every State the law provides that wages up to a certain amount cannot be seized by a creditor. The amount of wages thus exempted varies from State to State, running from \$20 to \$100. Also, when the laborer comes to collect wages due him, he finds himself favored by the law. For in nearly every State wages up to a certain sum are considered as preferred claims: that is, in the payment of debts they must be paid first.

In recent years government, in its desire to protect wage-earners, has, in some instances, gone so far as to have something to say about the *rate* of wages that shall be paid to workers. Lawmakers, finding that large classes of unskilled workers are paid wages far too low for decent self-support, have been coming to the relief of such underpaid employees by enacting laws that fix a rate below which wages shall not sink. That is to say, they have

passed *minimum wage* laws. The purpose of the minimum wage is to protect unorganized workers. Organized workers, through the power of collective bargaining (p. 376), can usually protect themselves; but persons outside the unions are often compelled to engage in a competition that is so fierce that they are forced to accept a wage too low for decent living. Where a minimum wage law is in operation competition cannot produce this bad result, for such a law fixes a *living wage*, that is, a wage that is sufficient for the "normal needs of the average employee regarded as a human being living in a civilized country."

Minimum wage legislation is permitted by the constitutions of two of our States. In Massachusetts, Arkansas, California, Minnesota, Kansas, Oregon, Wisconsin, Utah, North Dakota, Colorado, Arizona, Washington, and the District of Columbia minimum wage laws have been passed. But thus far such legislation has not been general in character, for it has been made to apply only to women and children. Other countries, however, notably Australia and Great Britain, have minimum wage laws that are applicable to both sexes.

What is the effect of minimum wage laws? What results have they produced? Professor J. R. Commons answers these questions as follows: "Among the better established results of minimum wage legislation may be mentioned (1) that it has raised wages; (2) that minimum wage rates do not in general tend to become maximum rates; (3) that it does not necessarily force workers out of industry; (4) that it does not unduly handicap employers; (5) that it does not undermine trade-union organization; and (6) that it does not decrease efficiency."¹

"Eight Hours for Work; Eight Hours for Rest; Eight Hours for What You Will." Unless there is a minimum wage law standing in the way, freedom of contract between employer and employee is complete. But in respect

¹ *Principles of Labor Legislation*, p. 196.

to hours of labor this freedom is somewhat restricted. In about half the States it is unlawful for children under sixteen to be employed for more than eight hours a day. In about three fourths of the States it is provided that women shall not be employed for more than ten hours a day, while in a few States the hour limit for women is fixed at eight hours. Millions of men also are reached by laws limiting the hours of employment. The length of the legal day of federal employees is eight hours. More than half the States have eight-hour laws for employees engaged on public works, and in a large number of cities the eight-hour rule is applied. Eight hours is deemed a day's work for railroad employees operating interstate trains. In some States the hours of men working at certain occupations have been limited by law.

While the laws restricting the hours of labor reach millions of workers and give them an eight-hour day, men and women by the tens of millions have a much longer working day—a nine-hour day, a ten-hour, even a twelve-hour day. Yet the trend of affairs everywhere is toward an eight-hour day. The rallying cry of the labor unions is: "Eight hours for work; eight hours for rest; and eight hours for what you will." The movement for the shorter work-day is world-wide. One of the declared aims of the League of Nations is to secure the adoption throughout the entire world of an eight-hour day and one day of rest in each week.

Unemployment. In countless cases it is not a problem of rest that confronts the toiler, but a problem of getting work to do. For in our workaday, practical world employment is a matter of catch-as-you-can, and vast numbers of men who are willing and able to work are unable to find jobs. The result is that society suffers an enormous loss through the wastes of unemployment. And the jobless worker suffers an enormous loss. Besides his immediate loss in wages, he often loses pluck and courage and hope.

A period of enforced idleness is a time of storm and stress that means a drain upon the vital forces that cannot be measured in terms of money. When we consider the extent of unemployment and its devastating effects, we are bound to regard it as one of the greatest evils in the industrial world.

As great as this evil is, it is not one for which government applies a remedy; government does not guarantee work to the unemployed. In the list of rights that belong to the citizen the "right to work" does not appear. Still, government is not wholly indifferent to the needs of the unemployed. In many States it has been recognized that to help the unemployed to find work is a proper function of government, and State employment officers have been created for the purpose of bringing the "jobless man to the manless job" without cost to either the employer or the employee. In scores of cities, too, there have been established municipal employment offices whose function is to give information to persons seeking work and to assist men in securing it. The federal government also has joined the movement for reducing the number of the unemployed. The Department of Labor, through thousands of postmasters and other federal officers, ascertains where laborers are needed, where they may be found, and puts employers who want men in touch with men who want work. Congress has not been liberal in supporting federal employment agencies, although liberality in this direction would without doubt be justified. For a well-organized central employment bureau, coöperating with municipal and State agencies, would have an almost boundless opportunity for rendering a service that would be of incalculable value to the nation.

Insurance Against Accidents. In respect to injuries received by employees while at their work, the police power is freely used for the protection and relief of the workmen. In nearly every country there are employers' liabil-

ity laws, which provide for insurance against occupational accidents and disease. In foreign countries laws of this kind reach more than fifty million wage-earners, while in the United States a very large portion of the working population is protected by industrial accident insurance paid by employers.

In the United States a law of Congress provides compensation for employees injured in the federal service, and more than forty States have passed employers' liability laws providing industrial accident insurance. In some States the relief afforded is small, and in no State does the compensation law cover all employments. Usually agriculture and domestic service are exempted from the provisions of the act. Nevertheless, in most cases the employers' liability law is a blessing to workmen. For example, take the case of a man who meets with an accident in a factory in Pennsylvania. For fourteen days the employer must supply necessary first aid, including medicine and surgical and hospital services. If the accident results in *total* disability, the injured employee after the fourteenth day begins to receive half of his pay, and continues to be compensated at this rate for 500 weeks; the compensation, however, must not be more than \$10 a week nor less than \$5, and in the aggregate it must not exceed \$4,000. If the man is only *partially disabled*, he receives 50 per cent. of the difference between his wages received before the accident and his earning power thereafter. Here, again, the weekly compensation must not be more than \$10. If the injured man is *permanently* disabled, his compensation is graded according to the character of the injury. Thus, for the loss of a hand he receives 50 per cent. of his wages for 175 weeks; for the loss of an arm 50 per cent. for 215 weeks. If the accident results in his death, his dependents receive a compensation that is specified by the terms of the law.

Child-Labor Laws. Of all the subjects brought within the

range of the police power, few, if any, are of greater importance than that of child labor. In the old time the labor of children was a thing with which government had little to do. If there were any laws at all on the subject, they were usually passed for the purpose of keeping the boys and girls employed, the idea being that the more they worked the better. When manufactures in America began to flourish, Alexander Hamilton approved, one of the reasons given for his approval being that manufactures would render "children more useful, . . . and more early useful than they would otherwise be." In these times, however, the employment of little children is condemned the world over, and everywhere the police power is invoked to protect the child from labor that would be harmful to its health or its morals. In a large number of States there are laws prescribing a *minimum* age, below which children may not be legally employed in any gainful occupation, agriculture and domestic service being exempted from the prohibition. In most States children under fourteen years of age are excluded from employment in such establishments as factories, mills, and workshops, and in such places as hotels, restaurants, laundries, bowling-alleys, and theaters. In a few States, as in Ohio and Michigan, the minimum age is fixed at fifteen. A federal law passed in 1919 has for its purpose the prevention of child labor by the exercise of the taxing power. Under this law persons employing children under sixteen in mines, or under fourteen in factories or canneries, are compelled to pay 10 per cent. of their entire net profits in addition to all their other taxes.

QUESTIONS ON THE TEXT

1. What is meant by the police power? Name some of the subjects covered by this power. By which government is the police power usually exercised?

2. In what way does government concern itself in respect to the wages of workmen? What is a minimum wage law? What have been the results of minimum wage legislation?

3. To what extent have our laws regulated the hours of labor? What can you say of the eight-hour movement?

4. Describe the evils of unemployment. What efforts have been made by government to find jobs for the unemployed?

5. To what extent are workmen provided with insurance against accident in foreign countries and in the United States? Give an account of the workings of a typical employers' liability law.

6. Give an account of child-labor legislation in the United States.

SUGGESTIVE QUESTIONS AND EXERCISES

1. Does the constitution of this State say anything about the wages of workingmen? about the minimum wage? about the length of the working day? about unemployment? about child labor?

2. Up to what amount are wages in this State exempted from seizure for the payment of debts? Up to what amount is a claim for wages regarded as a preferred claim? Is there a minimum wage law in this State? If so, what is the minimum rate? If there is no such law, ought there to be one? If so, what minimum rate would you establish?

3. What is the law in this State in regard to a day's labor for one employed upon public work? What is the legal length of a working-day for children? for women? Make out a list of the industries and occupations in which, to your knowledge, the working day is eight hours. Frame a wise and just law for the regulation of the length of a working day for children; for women; for men.

4. What bad effects does the enforced idleness of large numbers of people have upon society? What bad effects upon the individual does enforced idleness have? Give an account of the workings of any public employment agencies that may have been established in this State or in this city.

5. Is there an employers' liability law in this State? If so, describe fully the protection it gives to an injured workman.

6. Is there a child-labor law in this State? If so, what is the age below which children may not be employed? Enumerate the losses sustained by society when children are employed at a tender age. Enumerate the losses sustained by the child itself.

7. *Health Insurance.* As a corollary of the workman's accident insurance, a system of health insurance for workingmen has been proposed. The benefit to workers, under a complete scheme of health insurance, would consist of: (1) cash payment of a part of the wages of workers disabled by sickness; (2) complete medical care for the worker, including hospital and home care, and the cost of all medicines; (3) adequate provision for rehabilitation, both physical and vocational; (4) dental care; (5) medical care for the wives and dependents of workers. The cost of health insurance would be shared by the employer and the employee in equal proportion. Such is the plan of health insurance recommended by an Ohio commission that made an official investigation of the subject. What do you think of the plan?



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TOPICS FOR SPECIAL WORK

1. Social Insurance: Cleveland and Schafer, 263-292; Thompson, 382-396.
2. Individual Bargaining: Commons, 35-86.
3. The Human Wage: Commons, 167-196.
4. Unemployment: Commons, 261-293.
5. Industrial Accident Insurance: Commons, 354-382.
6. Regulation of Labor: Gettell, 517-518.

XLVIII

HEALTH, SAFETY, AND MORALITY

In the preceding chapter we learned of important instances in which the police power is invoked for the protection of workingmen. This power also extends to the regulation of matters that affect the health, safety, and morality of society. In this chapter, therefore, we shall learn how the police power is applied in matters pertaining to public health, public safety, and public morality.

A Word More About the Police Power. It has been stated (p. 384) that, in the name of the police power, government does the things that seem necessary to be done for the protection of society and for the promotion of the general welfare. An important thing to be remembered about the police power is this: it rests on the principle that one must use his own in such a way as not to injure another. I must make such use of my rights, my freedom, my property, as will not interfere with my neighbor in the lawful enjoyment of his rights and freedom and property. If a man, in order to strengthen his lungs, shouts lustily in an open field where no one can hear him, government will not check him; but if his shouting is done where people are disturbed by it, the police power may be interposed to silence him. A maker of dangerous explosives may ply his trade in an isolated building, and government may not interfere; but if he undertakes to make such explosives where the lives and property of others are thereby put in jeopardy, the police power will be invoked to prevent the manufacture. From its nature, the police power will always have a wider field of action in a city than in a village, and in a village than in a farming neighborhood.

Public Health. The State avails itself of the police power to preserve and protect the public health. In most of the States there is a *State Board of Health*, which exercises a general supervision over sanitary affairs, and coöperates with and gives suggestions to the health officers of the county. One of the most important duties of the State Board is to prevent the spread of contagious diseases. In order to accomplish this, it provides for the compulsory vaccination of citizens, and for the disinfection and destruction of places exposed to infectious and contagious diseases. It also may isolate persons stricken with contagious maladies, and assist in the enforcement of quarantine laws.

In a few States the State Board of Health is clothed with substantial powers, and exercises a real control over local sanitation; but in most of the States the actual care of the public health rests with the local government. In cities, where proper sanitary conditions are of the highest importance, a municipal board of health wages constant warfare against conditions that produce disease. In the discharge of their duties health officers are often compelled to intrude upon the private rights of the citizen. If some one in a house is suffering with a contagious disease, the house may be quarantined; if there is an epidemic of small-pox in a community, the citizens, willing or unwilling, may be compelled to be vaccinated; if the water in a private well contains disease-bearing germs, the well may be condemned and filled up by command of the health officers; if wearing apparel has been exposed to contagious disease, it may be destroyed by officers of the law. In the name of the public health and by virtue of the police power that it possesses, the government makes these invasions upon private rights.

The Federal Government and the Public Health. The preservation of the public health is primarily a State function, for it is a matter that comes within the scope of the police power (p. 385). The federal government; however,

is by no means inactive in matters where the national health is concerned. In the Department of the Treasury is a bureau known as the Public Health Service. In this bureau several thousand persons—physicians, nurses, attendants—are employed in public health work. Besides treating the ailments of soldiers, sailors, and marines, this federal bureau carries out the national quarantine regulations, its officers being stationed at almost every seaport, where they take measures to prevent the germs of such diseases as the bubonic plague from finding lodgment on American soil. Many of the workers in the Public Health Service go out into different parts of the country and assist in preventing the spread of contagious diseases. The bureau also has authority to study the conditions that influence the propagation and spread of disease, and may make official investigations covering the sanitation, sewage, and pollution of the navigable streams and lakes of the country. In its work the Public Health Service is not hampered by State boundaries. It serves, therefore, as a useful interstate agency for the promotion of the national health.

Public Safety. The State, or the local government acting for it, uses the police power freely to protect the public from unusual dangers. It compels railroad companies to fence their tracks and build them above or below grade at crossings; it requires engineers to ring the bell and blow the whistle at places on the railroad where the approach of the train may be dangerous to travel; it regulates the speed of trains and of automobiles; it limits the number of passengers a steamboat may carry; it compels the construction of fire-escapes for tall buildings; it permits the destruction of property to prevent the spread of fire; it throws safeguards around the sale of explosives and poisonous drugs; it commands the muzzling of dangerous dogs; it orders the demolition of buildings that threaten to fall and destroy life or property; it abates nuisances that inter-

fere with the comfort and convenience of society. In a hundred ways the citizen is reminded that the interests and desires of the individual are brushed aside when these happen to be hostile to the safety of society.

Public Morality. For centuries governments sought by legislation to mold the character of individuals. They subjected the private conduct of the citizen to official regulations and restraints with the view of making him a better man. Experience slowly taught the truth that a man cannot be legislated into morality, and governments gradually changed their attitude. Instead of seeking to improve the morals of the individual, they framed their laws with the view of preserving the morals of the state. In America the State uses the police power to protect the public morality, but in doing this it does not enter into the conscience and intention of the individual and pronounce certain acts immoral; it simply declares that certain external acts come under the police power for regulation or suppression, because they corrupt the morals of the public and thus strike a blow at the general welfare.

Prohibition. Prominent among the external acts of individuals that have been brought within scope of the police power is the excessive drinking of intoxicating liquors. Intemperance is as old as history, and efforts to suppress it by governmental action are almost as old. A thousand years before the Christian era, an emperor in China, in order to put an end to drunkenness, ordered all the vines in the kingdom to be uprooted, a reform that was imitated later (800 B. C.) by Lycurgus of Greece. During the middle ages the church struggled with intemperance, but at the end of the period Bacon was compelled to say that all the crimes on earth did not destroy so many lives or alienate so much property as drunkenness. In the seventeenth and eighteenth centuries the English government undertook to deal with the liquor traffic, but it did not go about the matter in the right way. The consumption of

liquor increased and drunkenness continued to be the prevailing vice in all classes of society. In the American colonies the evil was widespread.

In the early years of the nineteenth century temperance societies in England and the United States began a crusade in favor of total abstinence from intoxicating liquors, and about the middle of the century the influence of these societies began to be felt in legislative halls. In 1851 Maine passed a law prohibiting the sale and manufacture of intoxicating liquors except for manufacturing and medicinal purposes. This was the beginning of a prohibition movement that culminated in 1919 in the adoption of the Eighteenth Amendment to the Constitution of the United States. This amendment prohibits the "manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States, and all territories subject to the jurisdiction thereof, for beverage purposes (163)." The effect of the prohibition amendment is to bestow a police power upon the federal government. This, as we have learned (p. 385), is a departure from the traditional American policy.

By the terms of the Eighteenth Amendment, Congress and the several States are given concurrent power (p. 47) to enforce the amendment by appropriate legislation (164). In pursuance of this power the Volstead Act was passed, prescribing rules for the enforcement of the amendment. Since the State has concurrent power, State enforcement laws are also in operation. Where the State and the federal law conflict, the former gives way to the latter (p. 55).

Will nation-wide prohibition be effective? It will be successful to the extent that the movement receives the support of public opinion. A prohibition law, like any other law, must have behind it a strong public sentiment (p. 235). Where judges and juries and law officers and the best citizenship of a community are in earnest, and

are determined that intoxicating liquors shall not be manufactured or sold, prohibitory laws, whether State or federal, will be as effective in that community as other laws.

QUESTIONS ON THE TEXT

1. On what fundamental principle does the police power rest?
2. What are the duties of the State Board of Health? Give illustrations of the way health officers exercise the police power.
3. Give an account of the services of the federal government in connection with the national health.
4. What are some of the uses made of the police power to protect the public safety?
5. What actions are regulated or suppressed in the name of public morality?
6. What efforts have been made to suppress intemperance by governmental action? What are the provisions of the Prohibition Amendment? of the Volstead Act?
7. Upon what does the effectiveness of a prohibition law depend?

SUGGESTIVE QUESTIONS AND EXERCISES

1. Give reasons why, as a general rule, it is better that the police power should be exercised by the State rather than by the federal government.
2. Does the constitution of this State say anything about the police power?
3. Is there a State board of health in this State? How is it chosen? What are some of its powers?
4. Is there a local board of health in this municipality? How is it chosen? What is it doing for the public health?
5. Name some uses of the police power not stated in the text.
6. Are you aware of any unwarranted use of the police power in this State? If so, how may the abuse be corrected?
7. On what grounds would you justify a law or ordinance that forbids: the firing of Chinese crackers on the Fourth of July? the tooting of horns on Christmas Eve? the wearing of feathers in ladies' hats? the running of trains on Sunday? the selling of cigarettes to boys? the building of wooden houses in a city?
8. Does the constitution of this State say anything about the sale of intoxicating liquors?
9. Are the laws of this State in reference to the sale of liquor effective?

TOPICS FOR SPECIAL WORK

1. Protection of Life and Health: Bruère, 314-321.
2. Protection of Persons and Property: Bruère, 263-313.
3. Fire and Health Protection: Howe, 231-251.
4. Democracy and Health: Cleveland and Schafer, 165-192.
5. Prohibition: Reinsch, 338-363.

XLIX

THE HELPING HAND OF THE STATE

Society always has its poor and unfortunate, and one of the functions of government is to lend a helping hand to persons who need relief. In this chapter we shall learn how government attempts to solve the problems of the poor.

The Poor We Have Always with Us. That it is the function of government to care for the dependent classes has long been recognized. Throughout history destitution has always been present to excite the sympathy of rulers and to make an appeal for the helping hand of the state. Among the ancients a portion of the tithes was by law devoted to the poor. In ancient Rome corn-laws provided for the distribution of grain from the public granaries to those who could not afford to buy. Throughout the middle ages charity was, for the most part, administered by the Church, but in the sixteenth and seventeenth centuries the governments of Europe began to legislate for the poor. In the reign of Elizabeth England passed a law requiring each parish to support its own poor; and this law served as a model for poor laws in the colonies, and later was imitated by the several States.

Care of the Poor a Function of Local Government. The federal government has no charitable functions. It provides homes for its worn-out sailors and soldiers, it pays out vast sums as pensions to those who served in the Civil War and the Spanish American War, and it maintains in the Treasury Department a War Risk Bureau which administers a system of insurance designed for the protection and benefit of soldiers and sailors enrolled in the war against Germany; but the money spent in these directions

is in no sense a gift; it is a just debt due the recipients for service performed. Congress sometimes extends quick relief to communities that have been visited by fire or flood, but such assistance cannot properly be called charity.

Power for public alms-giving flows from the State. In the more recently adopted constitutions provision is broadly made for the subject of pauperism, just as provision is made for the subject of crime. The legislature usually imposes upon each locality the burden of caring for its own poor. Charity thus begins at home. The State government seldom dispenses aid directly to the dependent poor.

The civil division that most frequently has charge of public charity is the county. There are often county directors or overseers of the poor (p. 186), and these have charge of the county alms-house and of the distribution of funds to the needy. In States where there is a vigorous township government, the township, and not the county, administers the charities (p. 193), and likewise in a well organized city a department of charities often relieves the county of its charitable function.

Outdoor and Indoor Relief. There are two historic methods of helping the poor, the method of outdoor relief and indoor relief. Outdoor relief is the relief of the poor in their homes; indoor relief is given to the poor who have become inmates of alms-houses. In most of the States the two methods are employed side by side. The applicant for aid sometimes receives a small sum of money to be spent by himself in his home; sometimes he must go to the alms-house for food, clothing, and shelter. Whether aid shall be given indoors or outdoors is a question that the authorities of the locality decide, each case being judged according to the circumstances attending it.

The reasons for outdoor relief are these: (1) it is kindly, since the recipient is not separated from his friends and family; (2) it is economical, since it costs less on an aver-

age to assist a person in his home than it does to support him in an alms-house; (3) it would be impossible to accommodate in alms-houses all who apply for aid.

The reasons against outdoor relief are: (1) it increases the number of applicants, because it is less disgraceful than the indoor system; (2) it corrupts politics by tempting the authorities to extend aid in return for votes; (3) it reduces the rate of wages, because its recipients can afford to work for less than their self-supporting competitors.¹

The Defective Classes. Government extends its aid to the defective classes as well as to the dependent and helpless poor. A century ago paupers, defectives, and criminals were often huddled together within the same walls and subjected to treatment that was sometimes barbarous. Now there are separate institutions for each class. Moreover, the defectives are also divided into classes and are cared for in separate institutions. Thus we have institutions for the blind, for the deaf and dumb, for the insane, for the feeble-minded, for the epileptic, for the deformed.

As a rule, the expense of caring for the defective classes is too heavy to be borne wholly by the local government, and it becomes necessary for the State to care for them. In almost every State the central government provides hospitals for the insane, schools for the deaf and dumb, schools for the blind, and reformatory schools for juvenile offenders. These State institutions for defectives are supported in part by State revenues, in part by contributions from the local government.

State Boards of Charities. In nearly all the States there have been established State boards of charities. The duties of these boards vary, but usually the State board of charities exercises a close supervision over all the State reformatories and institutions for the defective classes, and inspects the charitable work of the localities and makes a report

¹ See A. G. Warner, *American Charities*.

thereon to the governor or to the legislature. In several instances this board possesses a very substantial power. Thus in New York the State board of charities visits, inspects, and maintains a general supervision of all institutions, societies, or associations of a charitable, corrective, or reformatory character, whether State, municipal, or unincorporated, and it can enforce in these institutions a humane and wise administration.

Mothers' Pensions; Old-Age Pensions. A popular form of outdoor relief is the mothers' pension. This is a certain sum paid out to the public treasury to a mother for the support and education of her children, when her family is dependent. For example, in Massachusetts the law provides that in every city and town the overseer of the poor shall aid mothers with dependent children under fourteen, the aid furnished to be sufficient to enable the mothers to bring up the children properly in their own homes. The law takes pains to state that mothers and children receiving aid in this way shall not be deemed to be paupers by reason of having received it. The laws providing mothers' pensions vary widely from State to State. The amount allowed for each orphan child ranges from \$2 to \$8 a week, and the age up to which an allowance may be made for a child varies from thirteen to seventeen years, sixteen years being the maximum age in most of the States. The newer laws and more recent amendments are in the direction of making the allowances more liberal and of raising the age of children who may legally receive the aid. Mothers' pension laws are in effect in nearly forty States, and it is estimated that more than 100,000 mothers and children are benefited by this relief. The widespread approval that has been given to the movement for mothers' pensions indicates that in the popular mind there is a deep-rooted conviction that no child should be deprived of home life and a mother's care simply because poverty stands at the door.

But dependent mothers are not the only people for whom pensions may be claimed on the ground of public policy. There is a growing conviction that the very old also are proper subjects for pensions. An investigation shows that nearly 1,250,000 persons in the United States above sixty-five years of age are dependent upon private and public charity. The majority of these men and women are worthy wage-earners who have toiled for society for thirty or forty or fifty years. Why, in their old age, should they not receive, as of right, pensions that would relieve them of the necessity of resorting to charity? In most of the countries of Europe measures have been taken to provide for the needs of the very old. In England, for example, every man and woman over seventy years old, who is of good character and has no property, receives a weekly pension from the government. In the United States little has been done to solve this problem, although it has not been wholly neglected. In several States, notably in California, Massachusetts, New Jersey, and Wisconsin, commissions have been established for investigating the question of old-age pensions, while the advocacy of the kind of relief seems to be gaining in earnestness and strength.

In 1920 Congress gave official recognition to the policy of old age pensions by passing the Retirement Bill. Under this law Uncle Sam pays annuities of from \$180 to \$720 to his civilian employees who have reached the age of seventy and have been in his service at least fifteen years. Special provision is made for retiring mechanics, letter carriers, and post office clerks at sixty-five, and railway postal clerks at sixty-two. It is estimated that over 400,000 federal employees will participate in the benefits of the retirement system. It is hoped that the retirement policy, besides bringing to hundreds of thousands an assurance of some provision against old age and helplessness, will also do much in the way of promoting efficiency in the federal offices.

Organized Charity. Of course, government is not the only alms-giver. We give to the beggar whom we pass on the street; well-to-do people often make it a point to extend regular assistance to certain destitute families; churches of every denomination engage in charity work; societies and associations for the relief of the poor abound in every community.

For a long time private charities as well as public were indiscriminate and unorganized, and the results of the haphazard giving were often unfortunate and sometimes ludicrous. Alms unwisely extended sometimes converted a person who was simply needy into a professional beggar, and the abundant sources of aid often invited the lazy to quit work and live entirely upon charity. This was possible when, by a little diplomacy and cunning, one could exploit the benevolence of perhaps a half dozen churches and as many societies.

In 1869 in England, and a little later in America, a movement was begun to organize charity work, and the results that followed were so satisfactory that charity organization societies were rapidly formed. Societies of this kind, known as associated charities or united charities or the bureau of charities, exist in more than two hundred cities in the United States.

Organized charity aims:

1. To secure coöperation and unity of action among all charitable agencies, public and private.
2. To learn the facts connected with every application for aid.
3. To extend quick relief to all who are actually in need.
4. To expose impostors.
5. To find work for all who are able and willing to work.
6. To establish relations of personal interest and sympathy between the poor and the well-to-do.

QUESTIONS ON THE TEXT

1. To what extent has charity in the past been regarded as a function of government?
2. From what source does the power for alms-giving flow? Which of the governments is charged with administering charity?
3. What is meant by outdoor relief? indoor relief? What reasons may be given for and against outdoor relief?
4. What provision is made for the defective classes?
5. What is the duty of the State board of charity?
6. What is the purpose of mothers' pensions? To what extent has the plan of mothers' pensions been adopted in the United States? Give reasons for a system of old-age pensions. What are the provisions of the federal Retirement Bill?
7. What evils attend unorganized and unsystematic charity work?
8. What are the aims of organized charity work?

SUGGESTIVE QUESTIONS AND EXERCISES

1. Does the constitution of this State say anything about charity? anything about pauperism? Are paupers permitted to vote in this State?
2. What provision is made in this State for the defective classes, the deaf, the blind, the insane, the feeble-minded?
3. Arrange the following causes of poverty according to the percentage of paupers made by each: *lack of employment, sickness, accident, insufficient earnings, intemperance, shiftlessness, physical defects*. If you are not able to secure the facts, use your judgment in making an arrangement.
4. Name the charitable institutions of which you have knowledge. Are most of these supported by private liberality?
5. If a street beggar should ask you for money, would you give him any? What is "scientific charity"?

TOPICS FOR SPECIAL WORK

1. The Administration of Charities and Corrections: Goodnow and Bates, 316-334.
2. Poverty and Pauperism: Ellwood, 299-335.
3. The Problem of Pauperism: Dole, 148-157.
4. Old-Age Pensions: Commons, 397-408.

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CRIME

In the simplest and rudest stages of society wrong-doing was regarded as a private matter and the wrong-doer was punished by private hands. The murderer was delivered over to the vengeance of the family of which the slain was a member; the thief was punished by the person from whom the goods were stolen. As society grew to be more highly organized, and as the power of government increased, private vengeance was gradually disallowed and the punishment of crime became strictly a function of government. By what principles is government guided when it undertakes to define and punish crime? What crimes are punished by the State? To what extent does the federal government deal with crime? What policy does the government pursue in respect to the prevention of crime and the treatment of criminals?

Definition of Crime. The first task of government in respect to crime is to define crime, to declare what actions are criminal. A crime is an act injurious to society and punishable by law; but before an act can be regarded as a crime it must be stamped as such by government. An act may be vicious or sinful, and yet if it is not named by law as a punishable offense it is not a crime.

As society becomes more complex the offenses designated by law as crimes become more numerous.¹ The telegraph has brought the crime of tapping wires and stealing electricity; railroads have brought the crime of train-wrecking; corporate combinations have caused penalties to be pro-

¹ The following table shows the nature of the offenses for which criminals in the United States are convicted and gives the percentage that each class of crime bears to the whole number committed:

Crimes against government, as treason, counterfeiting, anarchy....	2.2 %
Crimes against society, as disturbance of the peace, drunkenness	22 %
Crimes against the person, as murder, assault, mayhem.....	21.9 %
Crimes against property, as burglary, arson, theft.....	45.8 %
Miscellaneous crimes	8.1 %
Total.....	100.00 %

nounced against an undue restraint of trade; the factory has called forth penalties against the criminal neglect of the safety of workingmen. "All changes in social organization, in custom, in political control, import changes in the criminal law." Society is constantly defending itself against new dangers, and whenever an act of omission or commission is seen to be clearly hurtful to the public, it is designated by law as a crime.

Punishment of Crime. When the law defines an act as a crime, it usually at the same time provides a punishment. In the olden times punishment followed the law of retaliation: a life for a life, an eye for an eye, a tooth for a tooth. For the crime of murder this rule still prevails in most countries, although in several States capital punishment has been abandoned. By modern usage punishments for crime are assigned without any purpose of retaliation. The criminal is punished for the benefit of society, and not for the sake of private or public vengeance. What the punishment for a crime shall be is a question of expediency for the law to determine. In ordaining a punishment, however, it is the rule to make its severity correspond in some degree to the heinousness of the offense committed. When the form of punishment is not death, it is usually either a fine in money or imprisonment for a definite period of time. Excessive fines or cruel or unusual punishments cannot be inflicted by the federal government (142), but the State can provide such punishments as it deems proper, even if these seem to be cruel or unusual.

Crime and the State Government. In the United States the duty of defining crimes and affixing penalties and of punishing offenders belongs almost entirely to the State government. The constitution of the State generally allows the legislatures to deal with crime in their own way. In those States that have adopted the rules of the common law certain deeds are punishable as crimes without special legislative action. These are the common law crimes, and

include treason, murder, manslaughter, arson, larceny, burglary, kidnapping, assault, perjury, embezzlement. In a State that has not adopted the rules of the common law in reference to crime, before an act can be punished as criminal it must first be designated as such by a statute.

Several decades ago, in a Western State that did not at the time recognize the rules of the common law in reference to crime, a boy was kidnapped, and when the subject of the punishment of the kidnapper arose it was found that the laws of the State in which the act was committed said nothing about kidnapping. The perpetrator of the deed was not discovered, but it was generally acknowledged that even if he had been captured it would not have been possible to punish him. The federal government could not have touched the case, and the State government had not yet made the offense a crime.

Since each State deals with crime in its own way, criminals fare differently in different States. "The criminal code in one State in 1879 provided for the punishment of one hundred and fifty offenses as crimes, only one hundred and eight of which were recognized as crimes by the code of another State. . . . The penalty for perjury in one State is a fine limited between a minimum of five hundred dollars and a maximum of two thousand dollars; in others five years' imprisonment; in still others imprisonment for life; and in one death, if the crime causes the execution of an innocent person. . . . The penalty for arson varies from imprisonment for from one to ten years to death."¹ In one State murder may be punishable by death and horse-stealing by imprisonment for life; in an adjoining State horse-stealing may be punishable by death, and murder by imprisonment for life.

While this diversity in the laws of the different States in respect to crime may seem regrettable, we must not jump to the conclusion that the definition and punishment of crime should be given to the federal government. In deal-

¹ H. M. Boies, *The Science of Penology*, p. 83.

ing with crime, government is fighting with one of the foes of society, and the principle of local self-government, and the principle that a law to be effective must harmonize with the morality and sentiment of the community in which it is to be executed, both sustain the policy of letting each State fight its criminal foes in its own way.

Crime and the Federal Government. While the State government is the chief agent for suppressing crime, the federal government has a part in the work. Congress as well as the State legislature is constantly designating new crimes. Under the authority of the Constitution, Congress may define and punish crimes in the District of Columbia, in the Territories, and in other places wholly within the jurisdiction of the federal government; it provides punishment for offenses relating to the post-office, to interstate commerce, to the currency, to federal elections, and to all other matters that come within the scope of the federal jurisdiction. Congress also defines and punishes piracies committed on the high seas and offenses against the laws of nations (54).

There are no common-law crimes against the United States: only acts designated as crimes by Congress are punishable in federal courts. A person charged with violating a federal statute must be tried in the State in which the act was committed (139), and is entitled to a speedy trial by a jury consisting of citizens of the State.

Punishment for counterfeiting the securities and current coins of the United States is fixed by Congress (50). By "securities" is meant the government's bonds, its stamps, and other representatives of value. For counterfeiting gold and silver coin the punishment is a fine of not more than five thousand dollars, or imprisonment at hard labor for not more than ten years. For counterfeiting paper currency the punishment is still more severe.

The highest crime known to the law is treason, which may be broadly defined as an attack upon government it-

self. Under this broad definition in England and in other countries much injustice has been wrought. Men who have committed no crime other than to earn the displeasure of rulers have been charged with treason and put to death. To guard against evils of this sort the framers of the Constitution took the precaution of precisely defining what acts should be regarded as treasonable. To commit treason against the United States one must wage war against it (112) or give aid or comfort to its enemies.¹ If there be an actual assemblage of men whose purpose is to proceed with force against the authority or property of the United States, each member of such an assemblage may be adjudged a traitor. If a citizen—and no one but a citizen can be a traitor—sells a public enemy provisions or arms, he gives that enemy aid and comfort and is guilty of treason. As an additional safeguard against the abuse of power, the Constitution provides that at least two witnesses must testify to the treasonable act of which the accused is charged (113). The punishment of treason against the United States (114) is death, or, at the discretion of the court, five years of imprisonment and a fine of not less than ten thousand dollars. A civil officer of the United States found guilty of treason by the process of impeachment is deprived of his office.

Prevention of Crime and Treatment of Criminals. The criminal class in the United States numbers perhaps more than one per cent. of the total population, and it cannot be shown that the proportion is decreasing; indeed, able authorities assert that the proportion is increasing. This small but persevering and dangerous class has been present in all ages and in all countries, and governments have tried in vain to extirpate it. Law-makers, appealing to the emotion of fear, for a long time endeavored to decrease crime by making punishments for all kinds of offenses ex-

¹ Treason against a State is defined in the State constitutions, and the definition is usually identical with that given in the Constitution of the United States.

tremely severe; but they found that severity of penalty would not solve the problem. Then the law-makers attempted to apply the principle of justice in the punishment of criminals; they adapted the punishment to the crime, affixing a slight penalty to a petty offense and ordaining a more severe punishment for a more flagrant deed. Still this did not solve the problem; no scheme of punishments, however nicely adjusted, has as yet had the effect of decreasing crime.

In recent years we have been trying to prevent crime by removing its causes. It is recognized that crime is due in a large measure to an unfavorable environment, to bad company, to poverty, to the enervating influence of wealth and luxury, to crowded tenements, to the evil influences of cities, and philanthropists and statesmen are bending their efforts toward improving the environment that is responsible for crime.

Furthermore, the mental attitude of the public toward criminals is changing. Formerly it was the universal opinion that a criminal was a foe to society, and that in meting out punishment to this foe the welfare of society alone should be regarded. Now in the adjustment of punishments there is a disposition to regard the welfare of the criminal as well as the welfare of society. It is contended that a criminal is a person who is afflicted with a disease, the disease of criminality, and that government ought to heal this disease if it can do so. "Laws for the punishment of crime," says the constitution of Oregon, "shall be founded on the principles of reformation, and not of vindictive justice." If the criminal cannot be healed, government must prevent him from running at large. If, however, the criminal is curable, he must be restored to society as soon as he recovers. A penitentiary, according to this doctrine, is simply a moral hospital where criminals are confined until they are cured of the disease of criminality. In conformity with this view, industrial schools, reformatories, and asylums are, for many offenses, taking

the place of jails and penitentiaries, and *indeterminate* sentences—sentences that detain the criminal only as long as he remains unreformed—are being substituted for commitments for arbitrary definite periods.

In the case of juvenile delinquency great care is taken in most States to build up the character of the young offender so that his restoration to society may be complete and final. The young criminal is tried in a specially organized juvenile court, and if found guilty he may be committed to the supervision of a probation officer, or to the care of some industrial school; but he is not deprived wholly of his liberty. In some of the States the industrial schools established for juvenile offenders are not surrounded by walls, and are almost entirely free from bolts, bars, or other means of forcible restraint. At such institutions the inmates work on the farm, make their own clothes and shoes, receive instruction in manual training, and in this way are fitted for self-support.

QUESTIONS ON THE TEXT

1. How was crime punished in the earlier stages of social development?
2. Why is it necessary that the law should be constantly designating new crimes?
3. When affixing a punishment to a crime what purpose does the lawmaker have in view? What are the usual forms of punishment?
4. Give an account of the functions of the State government in reference to crime. What are common-law crimes?
5. Illustrate how punishment for crime varies from State to State.
6. What crimes are punishable by the federal government? What is treason? How is it punished?
7. What are some of the causes of crime?
8. What new policy is being adopted in reference to the treatment of criminals?

SUGGESTIVE QUESTIONS AND EXERCISES

1. Arrange the following causes of crime according to the percentage of criminals produced by each: *bad company, drink, poverty, temper, lack of moral principle, mental incapacity*. If you are unable to secure the statistics, use your judgment as to an arrangement.

2. What is the money cost of crime in this State?

3. Are you inclined to support the doctrine that the State in dealing with a criminal should entertain no idea of punishment; that it should simply treat the criminal as a sick person? Give reasons for your answer.

4. Does the constitution of this State say anything about crime? about punishments? What does the Constitution of the United States say about punishments (142)? Are those who have been convicted of crime in this State permitted to vote?

5. What industrial schools, reformatories, and asylums are supported in this State? What is a juvenile court?

6. What notable persons have been accused of treason in the United States? Has there ever been a conviction for treason?

7. Prepare a five-minute paper on the Elmira Reformatory.

8. Is the violation of a police law always a crime? What is the difference between a crime and a misdemeanor? between a crime and a sin?

TOPICS FOR SPECIAL WORK

1. The Definition of Crime: Ellwood, 326-329.
2. The Causes of Crime: Ellwood, 335-340.
3. The Juvenile Court: Reinsch, 199-206.
4. Crime and Juvenile Inefficiency: Reinsch, 181-198.
5. The Treatment of Crime: Dole, 130-147.

LI

URBAN AMERICA

Thus far we have considered those functions of government that, for the most part, are general in character and that affect the nation throughout its whole extent. In every community, whether urban or rural, there is taxation and regulation of commerce and industry and education and an exercise of the police power. But in cities the local government, in order to solve problems peculiar to municipal life, has undertaken to render a number of services which we may regard as special municipal functions. In the present chapter some of the most important of these special functions of municipal government will receive attention.

Growth of Cities and Extension of Municipal Functions.

The outstanding fact of modern society is that an increasingly large proportion of the total population of the civilized world is living an urban life. People are flocking to the cities in such numbers that the urban is growing faster than the rural population. This is true of nearly every country in the world, and is especially true of the United States. A hundred years ago America was rural; in recent years it has been rapidly becoming urban. In 1880 about one sixth of the population of the United States lived in cities; in 1890, about one fifth; in 1900, about one fourth; in 1910, about one third; in 1920, about one half.

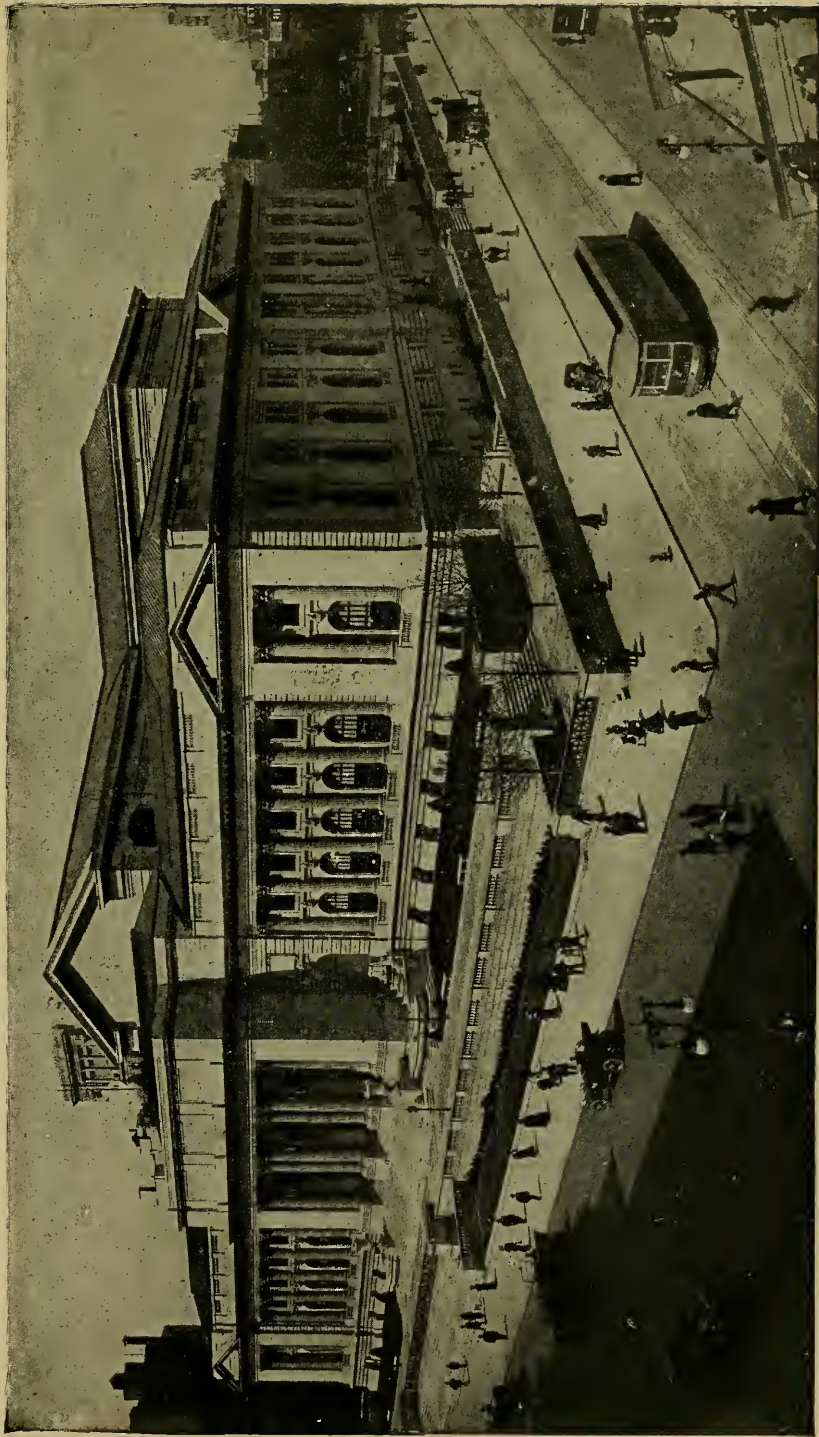
As our cities have grown in size the problems of municipal government have become more numerous and more perplexing. We have already learned that some of these problems have been solved by reforms in municipal organization (p. 210). But municipal questions of immediate and pressing importance relate not so much to *forms* of organization as to *functions*. "What things shall our city government do? What services shall it undertake to render?" Of all

the questions that the urban voter is called upon to answer, this is the most practical and the most important.

In determining the functions of the municipal government the tendency is to increase their number. As cities grow larger the wider is the range of municipal activity. A hundred years ago the chief concern of the municipal authorities was to preserve law and order: now the interest of the city fathers extends to the satisfaction of numerous social needs. It would be difficult to enumerate all the things done by a progressive municipality of to-day. The city government furnishes police protection; supports fire departments; provides water supplies; lights the street with gas or electricity, and paves and cleans them; constructs sewers; helps the poor and unfortunate; maintains a system of elementary and high schools; preserves public health; abates nuisances; inspects food; removes garbage; supports parks, libraries, hospitals, and cemeteries; fosters music, literature, and art; and provides and equips playgrounds for children. Of course, every city does not do all of these things, and it may be that no single city has done all of them at a given moment, for the whole matter of municipal functions is in a state of flux; yet this enumeration of possible services shows that the city government touches the lives of citizens at many points and administers to their needs in many ways.

The Problem of Public Utilities. Foremost among the problems relating to municipal functions is one bearing upon the subject of public utilities. By public utilities we mean those physical agencies by which water, gas, electricity, heat and transportation are supplied to residents. Or, we might say simply that water, gas, electricity, heat, and transportation are public utilities.

Public utilities are not free; they must be paid for by the people who make use of them. Their price, therefore, is a matter of vital importance to almost every inhabitant of the city. The price of a public utility depends in a



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large measure upon whether the plant supplying it is owned by the municipality or by a private person or corporation. If the plant is owned by the municipality, the utility may be sold at cost; for the city is not compelled to make a profit on it. If the plant is owned by a private person or corporation, the utility must be sold at a profit; for people who invest their money in the plant expect to reap a reward. So the public-utility question is this: Shall water, gas, electricity, and transportation be furnished by plants owned and operated by the city government, or by plants owned and operated by private persons or corporations?

In Great Britain and in several of the countries on the Continent municipal ownership of public utilities is general. For example, in Great Britain forty-two of the fifty largest cities own their street railways. In the United States municipal ownership has not been carried as far as it has been in Europe. Here water is the only public utility that is generally furnished by the municipality, although many cities own their electric-lighting plants and a considerable number of their gas plants. In the highly important matter of transportation little progress in the direction of municipal ownership has been made. San Francisco owns and operates a system of street railways, and in Cleveland the car lines are run on the principle that transportation belongs to the people and must be given to them at cost. Also in Seattle and Detroit the movement toward municipal ownership of street railways has made considerable headway. But these cities are exceptions; throughout the country at large street railways are owned and operated by private companies.

In many places the sentiment for public ownership of transportation facilities is strong, but often the difficulties that lie in the way cannot be easily overcome. Usually the great stumbling-block is the franchise (p. 268). The friends of municipal ownership too often find that the streets are not virgin soil upon which the city can lay its tracks at will. They find that the streets in which traffic

is greatest are already occupied by a private company to which a franchise has been granted. This franchise may extend through a long period of time,—twenty, fifty, a hundred years,—yet until it shall expire the people are debarred from the use of their streets. For the franchise is held by virtue of a contract between its holder and the government granting it, and no legislature or city council can pass a law impairing the obligations of contracts (73).

So the friends of municipal ownership must wait until the franchise expires. And then they will probably find that their battle has only begun. For the franchise may be worth many millions of dollars and its owners will almost certainly attempt to get its life extended, and in their fight for extension they will use every weapon at their command. They may even resort to bribery and corruption. Indeed, the franchise is the greatest source of scandal in municipal affairs. One of the strongest arguments in favor of municipal ownership is that it would do away with the franchise altogether, and thus remove the tap-root of municipal corruption. Assuming that the friends of municipal ownership have won their fight over the franchise, and that they have caused a system of municipal railways to be installed in their city, they will still have many difficulties to overcome. They will be opposed by powerful interests; obstacles will be thrown in their way by franchise seekers; and they will be lucky indeed if the railways do not go back into private hands.

But the friends of municipal ownership need not despair. For, after all, the trend of affairs is favorable to their cause. "A study of the history of municipal public utilities," says Dr. F. J. Goodnow, "and the conditions under which private operation has given and is giving way to public operation can hardly fail to carry conviction that the sphere of direct municipal action is, in spite of opposition, gradually extending. Just as the reliance upon the individual property-owners for the discharge of such functions as paving and sweeping the streets has given

way to public action, so has the supply of gas, electricity, and transportation been transferred from the individual to the utility corporation, and now seems destined, whether for good or ill, to be transferred in turn to direct agencies of government."

The Housing Problem. Closely linked with the transportation problem is the housing problem. In every growing city there is a natural tendency toward overcrowding, and an unsatisfactory transportation system contributes to the congestion. Workers must get to the place of their employment speedily and cheaply. If the transportation system does not permit them to do this, they must secure a residence located near the establishment in which they work. For the sake of this proximity they will pay high rents, live in cramped quarters, and put up with inconveniences. While everybody is thus trying to live in the same place, there is produced a congestion of population, which gives rise to the *housing* problem.

In some cases the congestion could be relieved by quick and cheap transportation to the suburbs, where there is plenty of room and light and air. But not in all cases; the evils of overcrowding can not always be remedied by improving transportation facilities. For in almost every large city there is a *land* problem to be dealt with. Within the city the high cost of land makes it impossible for a poor man to own his home or to rent a dwelling that is even fairly commodious. And the land problem extends beyond the limits of the city. The poor man seeking a suburban home finds too often that most of the vacant land close to the city is in the hands of speculators, who have bought it not with the view of building homes upon it, but with the view of holding it while it rises in value. For the market value of land near a large city is apt to be constantly advancing in price. As long as the price is upward the owner of the vacant land prefers not to sell, unless at a very high rate. He does not care to build

upon his land, because he figures that the soaring values of the vacant land will bring him more clear money than he would gain by building. He will sell lots, to be sure, to those who can afford to pay his prices; but to the poor man his prices are prohibitive. So neither in the city nor in the suburbs can the poor man find a decent home that he can call his own.

Inadequate transportation, excessive land values, and the rapid growth of city populations are the things that are chiefly responsible for the house shortage of which we hear so much in recent years. This shortage is alarming. It is a fact that in some of our cities there are not enough houses to shelter the people. Here is a municipal problem that is crying for a prompt solution. Public policy, to say nothing of the considerations of humanity, requires that people have proper homes in which to live. The backbone of a community is its home-loving citizens. The temper and loyalty of a people are affected profoundly by living conditions.

The first sure symptom of a mind in health
Is rest of heart, *and pleasure felt at home.*

The housing problem will hardly solve itself. It doubtless will have to be taken up with a firm hand by the government and dealt with in a serious manner. A report of an investigation into housing conditions in the city of Cleveland hits the nail on the head when it says: "We are forced to the conclusion that the housing problem can not be solved by private building enterprises under existing financial conditions; that the securing of adequate housing for workers is one of the fundamental problems upon which should be exerted all the social and economic forces of the community. If workmen are to come to our city to man our industries, it is apparent that they must be bound by other means than those to which we have hitherto resorted. Either the community or the government must come to the rescue and provide homes that are

within the range of price that the worker can rent or purchase, or through some control of resources make it possible to provide comfortable living accommodations for himself and family."

The shortage in houses is only one of the aspects of the housing problem. Bad housing conditions must be dealt with. The unsanitary tenement must be made sanitary. The dilapidated house must either be torn down or rendered fit for human habitation. Above all, the slum must be destroyed. The slum is a spreading cancer in the municipal body, and the foul thing should be removed by the sharp knife of the law, and the excision should be complete. In dealing with bad housing conditions the police power (p. 384) may be invoked, and it should be used in drastic fashion. For investigation in a score of cities has shown that bad housing is the root and source of a vast amount of disease, crime, and juvenile delinquency.

City Planning. With the view of avoiding the evils of bad housing, municipal reformers in recent years have been urging the necessity of directing the development of a city according to a well considered plan. Ordinarily cities have grown helter-skelter, like Topsy. But city planning provides that the city shall be built according to a preconceived scheme, or plan, which shall include streets, parks, play-grounds, transportation, markets, and the regulation of the height and use of buildings. If municipal development should proceed in accordance with such a preconceived plan the population would be assured of healthful housing conditions, the best means of communication between the different parts of the city would be established, the best architectural effects would be achieved, and many of the ugly and unwholesome features of city life would be erased. From the nature of things, city planning is a reform that is practicable on an extensive scale only in small cities that are just starting on the road to a larger growth. The most conspicuous instance in the United

States of the deliberate planning of a large city is our beautiful national capital. City planning is receiving the favorable attention of law-makers, and in a number of States city planning commissions have been created by law.

Municipal Recreation. City planning that is wisely conceived will make ample provisions for popular amusement and recreation. In the case of young people the impulse for sport is irresistible. But in a large city there is no suitable place where children may play in the right way unless a play-ground is specially set apart for them. This fact is receiving recognition and the movement for municipal play-grounds is nation-wide. In some States, as in California and Idaho, the law specifically authorizes the maintenance of play-grounds at public expense. In a number of cities there have been created recreation commissions whose duty is to direct and supervise the municipal play-grounds. Thus to provide means of recreation for the young is becoming a regularly exercised function of municipal government.

In our plans for municipal recreation adults should not be overlooked: for not by bread alone does man live. His spirit yearns for the buoyancy that comes with amusement. Now that we have the eight-hour day, workers have more leisure than they have ever had before. What shall they do with this leisure? Public policy demands that they be given an opportunity to spend a portion of their idle time at games and sports and feats of strength. That is to say, there should be public athletic grounds, gymnasia, and swimming-pools, so that the leisure of workers may be consumed in a wholesome manner. If this opportunity is denied it may be that Satan will direct the activities of the idle hours, with the result that increased leisure will mean increased vice and crime. But divert the idle hours with legitimate and healthful forms of recreation, and crime will be decreased. Wherever a recreation center

is established in a community, there is a surprising falling off of arrests among juvenile delinquents. "Recreation," says Miss Jane Adams, "is stronger than vice, and recreation alone can stifle the lust for it."

Community or Civic Center. Another agency for utilizing the leisure of city dwellers and directing their energies toward better things is the community or civic center. This is an organization composed of all adult citizens living within the boundaries of a certain neighborhood or community. The logical center of the community group is the school-house, for this building is the property of the people, and its location is usually convenient for all the members of the community center. So far is this true that in California, Indiana, Illinois, and in other States, every public school is by law declared to be a civic center. The underlying purpose of the community center is to give to the people of a neighborhood an opportunity to meet and discuss public affairs. It is thus a little democracy, and in a sense is a revival of the New England town-meeting (p. 198).

Two benefits of priceless value flow from the community center. In the first place, it creates a spirit of neighborliness. In large cities this spirit is often non-existent. People live next door to each other for years without even so much as speaking to each other. The result is that the city man is sometimes as far removed from social intercourse as is the hermit on the lonely seashore. Of course, such solitude is anti-social in its effect. An eminent philosopher (Huxley) has said that in a crowded city a civilized man may easily become a savage by reason of an isolated existence. At the community center people become acquainted with one another and learn to like one another and become neighbors in fact as well as in name. In the second place, the community center makes for a more vigorous democracy. It was at such meetings that democracy had its birth (p. 17). And it may be that the discussions

and speeches and debates in thousands of little community centers will give a new meaning to popular government and a new measure of happiness to the American nation.

QUESTIONS ON THE TEXT

1. Give an account of modern urban growth and of the extent of municipal functions.
2. Name the leading public utilities. What is the principal question involved in the ownership of a public utility? To what extent is there public ownership in the United States? Show how the franchise is a most important factor in public-utility problems.
3. What leads to overcrowding in cities? Show that land plays an important part in the housing problem. In what way is it likely that the housing problem will have to be solved?
4. What does systematic city planning undertake to do?
5. Why should opportunity for recreation be provided by the municipal authorities?
6. What is a community center? What benefits may be derived from community centers?

SUGGESTIVE QUESTIONS AND EXERCISES

1. Prepare a chart showing graphically the percentage of urban population in the United States at each decennial census.
2. In a list of one hundred of the largest cities of the world, how many of the cities are in the United States?
3. Enumerate the functions of the government of the municipality in which you live. What things are done by your city government that ought to be done by private enterprise? What things are done by private enterprise in this city that ought to be done by the municipal government?
4. Has this city a public-utility problem? Are public utilities in the city in the hands of the municipality?
5. Do the laws of the State permit a municipality to operate street railways? If so, in what cities in the State is there municipal ownership of the street railways?
6. Are housing conditions in this city satisfactory? If not, what reforms are desirable?
7. If your city should undertake the operation of all its public utilities, by whom would the movement be supported? By whom would it be opposed?
8. Is there a city planning commission in this State? If so, give an account of its powers. Should the policy of city planning be adopted in this city?
9. Give an account of municipal recreations in this city; of the community centers.
10. Describe the organization and purpose of any civic society of which you may have knowledge. Are you a member of any society of this kind?

TOPICS FOR SPECIAL WORK

1. Character of City Populations: Goodnow and Bates, 25-43.
2. The Problem of the City: Ellwood, 275-298.
3. The Health of the City: Zueblin, 326-358.
4. The Housing Problem: Howe, 273-288.
5. The City and the Public Service Corporation: Howe, 272-288.
6. Social Centers: Zueblin, 252-270.
7. City Planning: Zueblin, 326-358.

LII

RURAL AMERICA

Having considered some of the problems connected with urban America, we may pass now to the subject of rural America, and learn of the conditions that surround rural life and the measures that have been taken by the government to make the farm an effective industrial unit and to solve the problems of the country-side.

Decline of the Rural Population. In the all-important matter of population we find a condition in rural America that is just the opposite of that which prevails in urban America. In the case of cities the tendency is toward an increase of population; in the agricultural area the tendency is toward a decrease. "Canals," says L. H. Bailey, "railroads, telegraphs, postal routes, have drained the country into the city. Wealth has been piled up at the terminals, which are the trading-places, until society has become ganglionic in its organization." This movement of the population toward the city is apparent, to a greater or less extent, in almost every section of the United States. It is especially apparent in the East. Rural communities in some parts of New England have a smaller population than they had one hundred years ago, while in most of the rural counties of the State of New York there is a decline in population.

In those regions where a decline in the rural population is clearly seen agriculture itself is on the decline. As the region is depleted of its inhabitants, methods of tillage become more primitive and farming becomes a decadent occupation. This flow of population away from agricultural districts, therefore, is a matter of deep public concern. For agriculture is our basic industry, and must

continue to be our basic industry; and anything that undermines agriculture undermines the very structure of the American nation.

Conditions of Rural Life. Why is the tide flowing toward the city? Why is the country being depleted of its population? The answer is to be found, of course, in the conditions prevailing in rural districts. Broadly speaking, men leave the country and seek a home in the city because urban conditions of living are more attractive than rural conditions. In the fields the hours of labor are long, the toil is severe, and the day is apt to be spent in solitude, without companionship and without cheer. Then, the civilization of the country is crude compared with that of the city. Rural comforts and conveniences are few, while amusements and diversions are lacking. The result is that life in the country seems flat and monotonous. In the city it is far different. Here the hours of labor are shorter, toil seems lighter, companions are always near at hand, comforts and conveniences of every kind may be enjoyed, amusements of all sorts are provided, and existence in general seems to be full of delight and charm. So, led away by the glare of the city, the countryman abandons the dull, gray life of the farm.

Since this drainage of the country into the city is due chiefly to the forbidding conditions of rural life, the movement to the city can be checked only by improving the environment of rural dwellers. If workers are to be kept on the farm in numbers sufficient to feed the nation, the country-side must be made so attractive that the bright lights of the city will fail to allure. Rural conditions must undergo such a betterment that farming as an occupation will be just as agreeable and just as profitable as any occupation on earth. "Our civilization," said Theodore Roosevelt, "rests at bottom on the wholesomeness, the attractiveness, and the completeness, as well as the prosperity, of life in the country." How can rural conditions be so trans-

formed that the country as an abiding-place will compete successfully with the city? It is in the answer to this question that the rural problem will find its solution.

The Federal Government and the Farmer. In the great work of improving rural conditions the federal government is a powerful agency. The vast importance of the farm has been recognized by our national law-makers, and comprehensive measures have been taken by Congress for the advancement of agriculture.

Foremost among governmental agencies working for the benefit of the farmer is the federal Department of Agriculture. We have already learned of the services rendered by this department in connection with the conservation of our natural resources (p. 353). But conservation is only one of the interests of the great department. Its numerous bureaus and offices touch agriculture at every point and assist the farmer in almost every situation. Its *Bureau of Soils* studies the physical and chemical property of soils with the view of instructing the farmer in the fertility of his land and giving him valuable hints as to the use of fertilizers and the rotation of crops. Its *Bureau of Plant Industry* studies plant life in its relation to agriculture, making researches into the diseases of plants and discovering methods of curing and warding off such diseases. Its *Bureau of Animal Industry* investigates the nature of communicable diseases dangerous to live stock, and takes measures for their extirpation. Its *Bureau of Entomology* studies insect life with the view of discovering what insects are beneficial to the farmer and what are injurious. Its *Bureau of Biological Survey* studies the geographical distribution of animals and plants, and investigates the economic relations of birds and mammals, recommending measures for the preservation of beneficial and the destruction of injurious species. Its *Weather Bureau*, besides making forecasts of the weather for the benefit of sailors and those who dwell on the seashores, gives to farmers also timely

warning of approaching storms, frosts, and floods. Its *Bureau of Crop Estimates*, assisted by more than 150,000 volunteer observers scattered over the country, collects facts as to growing crops, and makes estimates of the probable yield that may be expected, thus giving the farmer a useful hint both as to prices and as to the acreage that may be wisely devoted to this or that crop. Its *Office of Markets and Rural Organization* makes a study of coöperative organization among farmers for the purpose of extending such organization more widely, and spreads information regarding uniform methods in the marketing and distribution of farm products. Its *Division of Publications* sends out every year to farmers in all parts of the country millions and millions of pamphlets and bulletins containing information pertaining to every branch of agriculture.

A great deal of the work of the Department of Agriculture is of a scientific character and is done in laboratories in the city of Washington, the results of the investigations of the laboratory being published and distributed broadcast to those who want them. But many of the activities of the Department are entirely practical in character and are of direct assistance to the farmer. Specialists in road construction are sent hither and thither by the *Bureau of Public Roads and Rural Engineering* to give instruction in the best methods of building highways (p. 332). Through its *Office of Experiment Stations* the Department assists experiment stations all over the country in their investigations of local agricultural conditions and in their efforts to discover the most profitable methods of tilling and improving the soil. The *States Relation Service* has charge of an elaborate plan of extension work in agriculture and home economics, which is provided for in the Smith-Lever Act of 1914 and which involves the coöperation of the federal department with State agricultural colleges.

The head and front of the extension work is the county agent, who acts as a joint representative of the local community, the State college, and the federal department.

The county agent spends a large part of his time with the farmers in their fields and barns. He talks to farmers at their meetings; he shows them how the soil may be best prepared for planting; he gives them advice as to the proper use of fertilizers; he instructs them in business methods; he organizes them for purposes of coöperative effort. One of his duties is to organize boys and girls into clubs for the competitive growing of crops, the raising of pigs and poultry, and the canning of vegetables. Women county agents, or home demonstration agents, supplementing the efforts of the regular county agent, carry the extension work into the rural home and instruct the wives of the farmers in the elements of home economics, teaching them useful lessons relating to diet, the conservation of food and clothing, the purchase of household supplies, and other matters relating to household economy.

Another federal agency established for the promotion of agriculture is the system of Farm Loan Banks, which reaches intimately into the rural districts and operates on terms suited to the needs of farmers. Before this system was established (in 1916) farmers were at a disadvantage in the matter of credit; they could not borrow money on terms as favorable and with as much freedom as it could be borrowed by those engaged in manufacturing or commercial enterprises. But the Farm Loan Bank puts farmers on an equality with all other persons having genuine assets for security. Any owner of a farm needing money for certain purposes connected with farming may borrow from a Farm Loan Bank for a long term at a low rate of interest and pay off his debt in small equal annual instalments. For example, if a farmer needs a thousand dollars with which to build a barn, he can borrow the money and arrange to repay it, principal and interest, in equal fixed sums during a period not shorter than five years nor longer than fifty years. If, at any time after five years, he wishes to make larger payment on the loans and thus pay off the debt more quickly, he is permitted to do so.

The State Government and the Farmer. The federal government does not work alone in its efforts to improve the condition of the farmer, for in every State there is an administrative agency of some kind devoted to agriculture. In about half the States this agency is a regularly organized department of agriculture, the head of which is usually appointed by the governor, although in some cases he is elected by the voters of the State. In States that have no regularly organized department of agriculture, the organization devoted to the farmers' interest is a board or a society that concerns itself, in one way or another, with the exploitation of the agricultural resources of the State, and that carries out plans for the holding of conventions and fairs. In some cases, as in Michigan, and Colorado, the board of agriculture manages the affairs of the State agricultural college.

Upon the State department of agriculture rests the duty of caring for the peculiar needs of the farmers within the State. The functions of the State agency, therefore, are local rather than national in character and scope. In some cases these functions are performed in a satisfactory and praiseworthy manner, the State department of agriculture being generously supported, well organized, and alert in its efforts to improve rural conditions. In not a few cases, however, the State deals with its agricultural problems in a careless, haphazard manner. This neglect is due too often to the fact that the State relies upon the department at Washington to do the things it ought itself to do. Such an attitude of reliance is contrary to the spirit of our political system. Farmers ought not to ask the federal government to render services that can be rendered best by local institutions.

The farmer is assisted not only by an administrative department of the State government, but also by educational agencies that are either supported by the State or established by its authority. In more than 2,500 high schools pupils are given elementary instruction in farming.

In about 70 State agricultural colleges, more than 100,000 students receive scientific instruction in agriculture. At some of our State universities, as at Cornell University and the universities of Ohio, Illinois, Wisconsin, Kansas, Iowa, and California, the work done in agricultural subjects is on an extensive scale and is of a highly practical character.

The Local Government and the Farmer. We have now learned that the federal government, and in most cases the State government also, are active in their efforts to help the farmer. What does the locality do for the farmer? What are the distinct agricultural functions of the county and of the township? Oddly enough, when we make a survey of rural America throughout its whole extent, we find that neither the county government nor the township government contributes very much either to the promotion of agriculture or to the solution of rural problems. There are exceptions here and there, it is true, but generally the very governments that are closest to the farmer are doing the least for the betterment of rural conditions. Aside from the management of the district schools and the care of the roads, the rural political organization has few functions that are of vital importance to a farming community. In some States even the care of the roads is being transferred from the locality to the State (p. 331)..

It would seem, then, that the rural governments ought to have more power; that in planning for the administration of the county and township the laws ought to give these civil divisions sufficient authority to deal with all rural problems in an effective manner. For the countryside, no less than the city, has problems that require the attention of government. The country has its slums; often it has surface conditions that produce disease; it has need for hospital facilities, for public libraries, for amusements and popular diversions. In truth, rural problems in many respects are identical with urban problems. Yet the unin-

corporated rural community is scantily supplied with authority to deal with its questions, while the incorporated place is given power with a lavish hand.

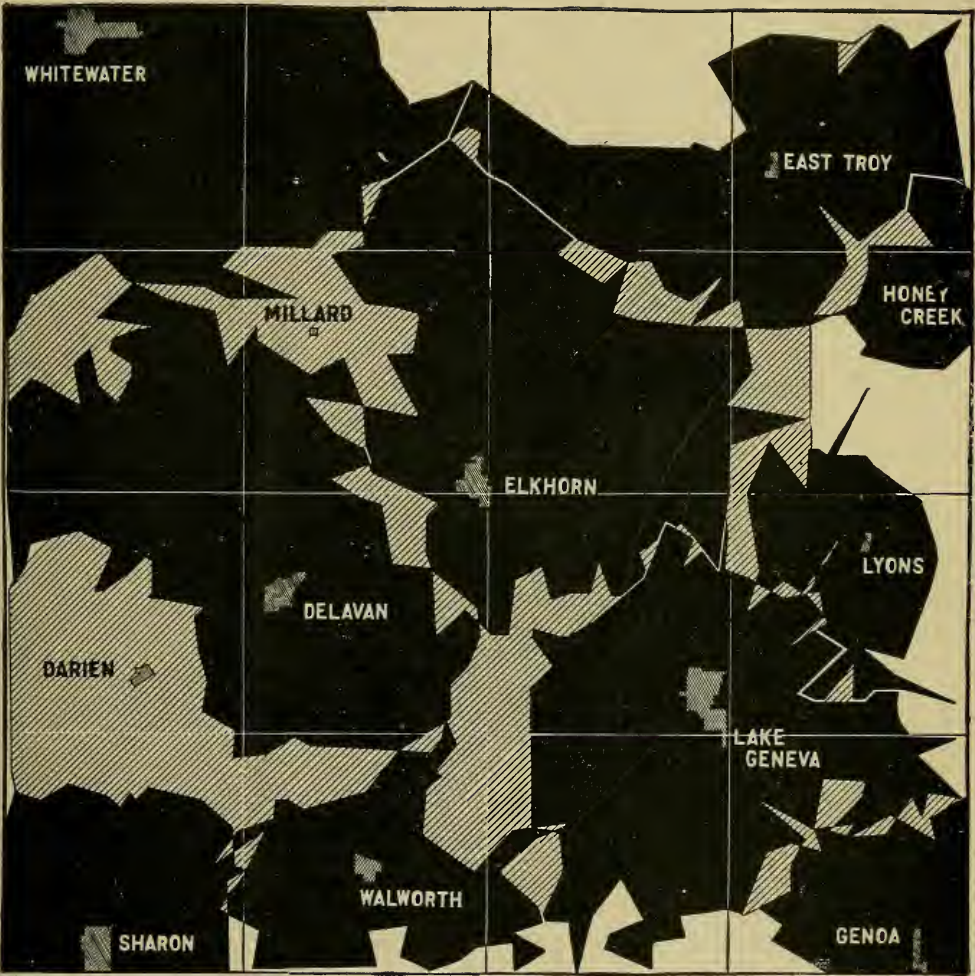
Still, it is by no means certain that a mere augmentation of the powers of the rural governments would go far toward making the country-side the place it must be if the rural problem is to be really solved. For the trouble involves not only the question of power but the question of territorial jurisdiction. A painstaking study of the structure of rural society seems to show that the lines that bound the township are not, as a rule, the lines that bound a distinct rural community unit, a community knit together by social and economic ties. Yet rural society is made up of distinct community units. At the center of the unit is a village (or city). Surrounding this village or civic center is an irregularly shaped farming district, the outer edge of which is the boundary of the community. The farmers living within the community trade at the civic center, have their banking interests there, attend church there, patronize the high school there, and secure their reading matter from the public library there. That is to say, the commercial, the financial, the religious, the educational, and the intellectual interests of the farmers are focused at the civic center. In turn, too, the interests of the inhabitants of the village are inextricably bound up with the interests of the rural zone. So we may say that the farming district and civic center, taken together, constitute a rural community unit, in the true sense of the term.

Students of rural life have suggested that existing township lines be erased and that a new political division be created, the boundaries of the new division to be coterminous with the natural rural community unit. Mr. C. J. Galpin would call this unit a *borough*. "The rural borough," he says, "shall be the basal unit of rural structure of community scale and character, standing above the family unit and above the neighborhood unit, and consisting of both the business center and the land founda-

tion. This business center is the borough town. The land foundation is borough land." Such a reorganization, it is contended, would give rural America a political instrument that would enable the people of the town and the people of the country to work together for the advancement of the common good. For, where an urban community and a farming district are held firmly together by social and economic ties, the interest of townsmen and the interests of the farmers are inseparable.

Farmers' Associations. Since local governments, as constituted at present, do not readily lend themselves to the betterment of rural conditions, the farmer must rely largely upon voluntary organization for the protection and promotion of his interests and the development of the country-side. Taken as a body, the farmers of the nation have been active in forming organizations for mutual profit and improvement. The Farmers' Alliance has a membership of several millions. In about 8,000 communities there are Granges, comprised of farmers organized for social and educational purposes as well as for the advancement of agriculture. In thousands of communities, too, there are held regularly Farmers' Institutes, which serve as clearing-houses for the exchange of knowledge bearing upon the occupation of farming and which give to millions of farmers an opportunity to hear popular lectures. Then in many a locality there is a rural social center or a country church which strengthens the bonds of social union and fosters the spirit of democracy.

These volunteer associations are replete with hope and promise. They show that the farmer is relying upon himself; that he has within himself the personal starting-power and enthusiasm that are indispensable to a successful solution of the problems of rural life. Rural America will be made as attractive as urban America, not by those who live in the city, but by the farmers themselves. For only the farmer can discern the real needs of a rural community.



VILLAGE OR CITY CENTER
 TRADE AT ONE CENTER
 TRADE AT TWO OR MORE CENTERS
 TRADE OUTSIDE THE COUNTY

TRADE COMMUNITIES

Map of Walworth Co., Wisconsin, showing that the villages and cities of the county serve as trade centers for the farm homes precisely as for the village and city houses, and that all the homes trading at the same center form a trade community. See C. J. Galpin's *Rural Life*, p. 74.

"I want to see," says Dr. Bailey, "the development of a virile and effective rural society; and I know such a society can come as the result of forces arising out of the country as a natural experiment of the country itself, not as a reflection or transplanting of city institutions. The country must develop its own ideals and self-respect. . . . The countryman needs more social life; but his entertainment and contentment must come largely out of his occupation and his content with nature, not from mere extraneous attractions."

QUESTIONS ON THE TEXT

1. To what extent is our rural population declining? Why is this decline a cause of regret?

2. Contrast rural living conditions with urban conditions. State the rural problem.

3. Sketch briefly the services of the federal Department of Agriculture. What are some of the direct, practical things done by the department? Give an account of the services of the county agent. In what way are farmers helped by the Farm Loan Banks?

4. What is done by the State for the promotion of agriculture?

5. What can you say of the services rendered by the local governments for the betterment of rural life? What reform in the local government has been suggested? Upon what idea is the proposed reform based?

6. To what extent have farmers organized for the promotion of their interests?

SUGGESTIVE QUESTIONS AND EXERCISES

(For students in rural communities)

1. Are the towns in this county growing in population? Is the farming population in this county increasing?

2. Do men who work on the farms in this county receive as good a wage as those who work in the towns?

3. Make a map of this county showing the boundaries of the trade communities. Prepare another map showing the communities that are areas of high school attendance. Prepare still another map showing the communities that are the areas of church attendance. Compare the boundaries of the communities on each map and discover to what extent the communities are conterminous.

4. If you live in a township, compare the township boundaries with the boundaries of the social and economic community unit in which you live.

5. In North Carolina the farmers of a community are given the right of associating together in a legal way with the privileges of a

municipality. Would you ask the same right for the farmers of this State?

A hint on reading. For the subject of Rural America, read C. J. Galpin's *Rural Life*.

Constitutional Powers of Congress

APPENDIX A

THE AMERICAN DEMOCRACY

THE CONSTITUTION

OF THE

UNITED STATES OF AMERICA

WE THE PEOPLE of the United States, in Order to form a 1
more perfect Union, establish Justice, insure domestic
Tranquillity, provide for the common defence, promote
the general Welfare, and secure the Blessings of Liberty
of ourselves and our Prosperity, do ordain and establish
this CONSTITUTION for the United States of America.

ARTICLE I

SECTION 1. All legislative Powers herein granted shall be
vested in a Congress of the United States, which shall con- 2
sist of a Senate and House of Representatives.

SECTION 2. The House of Representatives shall be com-
posed of Members chosen every second Year by the People 3
of the several States, and the Electors in each State shall
have the Qualifications requisite for Electors of the most 4
numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have
attained to the age of twenty-five Years, and had been seven 5
Years a Citizen of the United States, and who shall not,
when elected, be an Inhabitant of that State in which he 6
shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, *three fifths of all other Persons*.¹ The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

SECTION 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.²

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the

¹ The clause in italics superseded by the 13th and 14th Amendments.

² This paragraph was superseded by the 17th Amendment.

fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every 16 second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which 17 shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the age of thirty Years, and been nine Years a citizen 18 of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be 19 chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be 20 equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice Presi- 21 dent, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Per- 22 son shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to indictment, Trial, Judgment and Punishment, according to Law.

SECTION 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress 24 may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

SECTION 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

SECTION 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been en-

creased during such time; and no Person holding any Office 35
under the United States, shall be a Member of either House
during his Continuance in Office.

SECTION 7. All Bills for raising Revenue shall originate in 36
the House of Representatives; but the Senate may propose
or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Repre- 37
sentatives and the Senate, shall, before it becomes a Law,
be presented to the President of the United States; If he
approve he shall sign it, but if not he shall return it, with 38
his Objections, to that House in which it shall have origi-
nated, who shall enter the Objections at large on their
Journal, and proceed to reconsider it. If after such Recon-
sideration two thirds of that House shall agree to pass 39
the Bill, it shall be sent, together with the Objections, to
the other House, by which it shall likewise be reconsidered,
and if approved by two thirds of that House, it shall be 40
come a Law. But in all such Cases the Votes of both Houses
shall be determined by yeas and nays, and the Names of
the Persons voting for and against the Bill shall be en-
tered on the Journal of each House respectively. If any
Bill shall not be returned by the President within ten Days 41
(Sundays excepted) after it shall have been presented to
him, the Same shall be a Law, in like Manner as if he had
signed it, unless the Congress by their Adjournment pre-
vents its Return, in which Case it shall not be a Law.

Every Order, Resolution,¹ or Vote to which the Concur- 42
rence of the Senate and House of Representatives may be 43
necessary (except on a question of Adjournment) shall be
presented to the President of the United States; and before
the Same shall take Effect, shall be approved by him, or
being disapproved by him, shall be repassed by two thirds
of the Senate and House of Representatives, according to
the Rules and Limitations prescribed in the Case of a Bill.

¹ Resolutions of Congress proposing amendments to the Constitution do
not require the assent of the President.

- 44 SECTION 8. The Congress shall have Power to lay and col-
45 lect Taxes, Duties, Imposts and Excises, to pay the Debts
of the United States; but all Duties, Imposts and Excises
shall be uniform throughout the United States;
46 To borrow money on the credit of the United States;
47 To regulate Commerce with foreign Nations, and among
the several States, and with the Indian Tribes;
48 To establish an uniform Rule of Naturalization, and
uniform Laws on the subject of Bankruptcies¹ throughout
the United States;
49 To coin Money, regulate the Value thereof, and of foreign
Coin, and fix the Standard of Weights and Measures;
50 To provide for the Punishment of counterfeiting the
Securities and current Coin of the United States;
51 To establish Post Offices and post Roads;
To promote the Progress of Science and useful Arts, by
52 securing for limited Times to Authors and Inventors the
exclusive Right to their respective Writings and Discov-
eries;²
53 To constitute Tribunals inferior to the supreme Court;
54 To define and punish Piracies and Felonies committed
on the high Seas, and Offences against the Law of Nations;
55 To declare War, grant Letters of Marque and Reprisal,
and make Rules concerning Captures on Land and Water;

¹ A bankrupt law enables a person who is unable to pay all his debts to divide what property he has among his creditors proportionately and to be discharged from legal obligation to make further payment. Congress has absolute power in the matter of bankruptcy, but it has not exercised this power continuously. The present bankrupt law was passed in 1898. In the absence of legislation by Congress the State regulates the subject of bankruptcy.

² An author may secure a copyright on a book by sending to the librarian of Congress at Washington a copy of the title-page and two copies of the book on or before the day of publication. The copyright gives an exclusive right to sell for twenty-eight years, a period which upon application may be extended twenty-eight years. A patent secures to an inventor the exclusive right to manufacture and sell his invention for seventeen years. Patents are secured by sending to the Commissioner of Patents at Washington a working model of the thing invented.

To raise and support Armies, but no Appropriation of 56
Money to that Use shall be for a longer Term than two
Years;

To provide and maintain a Navy; 57

To make Rules for the Government and Regulation of 58
the land and naval Forces;

To provide for calling forth the Militia to execute the 59
Laws of the Union, suppress Insurrections and repel In-
vasions;

To provide for organizing, arming, and disciplining, the
Militia, and for governing such Part of them as may be
employed in the Service of the United States, reserving
to the States respectively the Appointment of the officers,
and the Authority of training the Militia according to the 60
discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatso-
ever, over such District (not exceeding ten Miles square)
as may, by Cession of particular States, and the Accep-
tance of Congress, become the Seat of the Government and
of the United States, and to exercise like Authority over 62
all Places purchased by the Consent of the Legislature of
the State in which the Same shall be, for the Erection of
Forts, Magazines, Arsenals, dock-Yards, and other need-
ful Buildings;—And

To make all Laws which shall be necessary and proper 63
for carrying into Execution the foregoing Powers, and all
other Powers vested by this Constitution in the Govern-
ment of the United States, or in any Department or Officer
thereof.

[SECTION 9. The Migration or Importation of such Persons
as any of the States now existing shall think proper to
admit, shall not be prohibited by the Congress prior to the
Year one thousand eight hundred and eight, but a Tax
or duty may be imposed on such Importation, not exceed-
ing ten dollars for each Person.] ¹

¹ This clause has no longer any significance.

64 The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

65 No Bill of Attainder or ex post facto Law shall be passed.

66 No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

67 No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

69 No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

71 No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

72 SECTION 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; 73 pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay 74 any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection 75 Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Control of Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace; enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War unless actually invaded, or in such imminent Danger as will not admit of delay.

ARTICLE II

SECTION 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

[The Electors shall meet in their respective States, and vote by ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such a Majority, and have an equal Number of Votes, then the House of Representatives shall immedi-

ately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having
84 one Vote; A quorum for the Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors
85 shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.] ¹

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No Person except a natural born Citizen, or a Citizen of
86 the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not
87 have attained to the Age of thirty-five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the
88 Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation which shall neither be increased nor
90 diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

¹ This paragraph has been superseded by the 12th amendment.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly 91 swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

SECTION 2. The President shall be Commander in Chief of 92 the Army and Navy of the United States, and of the Militia of the Several States, when called into the actual Service of the United States; he may require the Opinion, in writ- 93 ing, of the principal Officer in each of the Executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Re- 94 pries and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds 95 of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Con- 96 suls, Judges of the Supreme Court, and all other Officers 97 of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment 98 of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by 99 granting Commissions which shall expire at the End of their next Session.

SECTION 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge neces-

100 sary and expedient; he may, on extraordinary Occasions,
convene both Houses, or either of them, and in Case of
101 Disagreement between them, with Respect to the time of
Adjournment, he may adjourn them to such Time as he
shall think proper; he shall receive Ambassadors and other
102 public Ministers; he shall take Care that the Laws be faithfully
executed, and shall Commission all the Officers of
the United States.

103 SECTION 4. The President, Vice President and all civil
Officers of the United States, shall be removed from Office
104 on Impeachment for, and Conviction of, Treason, Bribery,
or other high Crimes and Misdemeanors.

ARTICLE III

SECTION 1. The judicial Power of the United States, shall
105 be vested in one supreme Court, and in such inferior Courts
as the Congress may from time to time ordain and establish.
The Judges, both of the supreme and inferior Courts,
106 shall hold their Offices during good Behaviour, and shall,
at stated Times, receive for their Services, a Compensation,
which shall not be diminished during their continuance
in Office.

SECTION 2. (The judicial Power shall extend to all Cases,
in Law and Equity, arising under this Constitution, the
Laws of the United States, and Treaties made,) or which
shall be made, under their Authority;—to all Cases affect-
107 ing Ambassadors, other public Ministers and Consuls;—
to all Cases of admiralty and maritime Jurisdiction;—to
108 Controversies to which the United States shall be a Party;
—to Controversies between two or more States;—between
109 a State and Citizens of another State:¹—between Citizens
of different States;—between Citizens of the same State

¹ This clause was modified by the 11th amendment.

claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such regulations as the Congress shall make. 110

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed. 111

SECTION 3. Treason against the United States shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court. 113

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted. 114

ARTICLE IV

SECTION 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof. 115

116 SECTION 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

117 A Person charged in any State with Treason, Felony, or other Crime, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to remove to the State having Jurisdiction of the Crime.

[No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.]¹

118 SECTION 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State, nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

119 The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

120 SECTION 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on
121 Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

¹ Since the abolition of slavery this clause has had no significance.

ARTICLE V

The Congress, whenever two thirds of both Houses shall 122
deem it necessary, shall propose Amendments to this Con-
stitution, or, on the Application of the Legislatures of two
thirds of the several States, shall call a Convention for
proposing Amendments, which in either Case, shall be
valid to all Intents and Purposes, as Part of this Constitu-
tion, when ratified by the Legislatures of three fourths of 123
the several States, or by Conventions in three fourths
thereof, as the one or the other Mode of Ratification may
be proposed by the Congress; Provided that no Amendment
which may be made prior to the Year One thousand eight
hundred and eight shall in any Manner affect the first and
fourth Clauses in the Ninth Section of the first Article;
and that no State, without its Consent, shall be deprived 124
of its equal Suffrage in the Senate.

ARTICLE VI

All Debts contracted and Engagements entered into,
before the Adoption of this Constitution, shall be as valid 125
against the United States under this Constitution, as under
the Confederation.

This Constitution, and the Laws of the United States
which shall be made in Pursuance thereof; and all Treaties 126
made, or which shall be made, under the Authority of the
United States, shall be the supreme Law of the Land; and
the Judges in every State shall be bound thereby, any 127
Thing in the Constitution or Laws of any State to the
Contrary notwithstanding.

The Senators and Representatives before mentioned, and
the Members of the several State Legislatures, and all
executive and judicial Officers, both of the United States

and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

ARTICLE VII

The Ratification of the Conventions of nine States shall be sufficient for the Establishment of this Constitution between the States so ratifying the same.

Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth. In Witness whereof We have hereunto subscribed our Names,

G^o: WASHINGTON—*Presidt.*
and deputy from Virginia

Attest WILLIAM JACKSON, *Secretary*

New Hampshire { JOHN LANGDON
NICHOLAS GILMAN

Massachusetts { NATHANIEL GORHAM
RUFUS KING

Connecticut { WM. SAML. JOHNSON
ROGER SHERMAN

New York ALEXANDER HAMILTON

New Jersey { WIL: LIVINGSTON
DAVID BREARLEY
WM. PATERSON
JONA: DAYTON

<i>Pennsylvania</i>	{	B. FRANKLIN THOMAS MIFFLIN ROBT. MORRIS GEO. CLYMER THOS. FITZ SIMONS JARED INGERSOLL JAMES WILSON GOUV MORRIS
<i>Delaware.</i>	{	GEO. READ GUNNING BEDFORD jun JOHN DICKINSON RICHARD BASSETT JACO: BROOM
<i>Maryland</i>	{	JAMES MCHENRY DAN OF ST THOS. JENIFER DANL CARROLL
<i>Virginia</i>	{	JOHN BLAIR— JAMES MADISON Jr
<i>North Carolina</i>	{	WM: BLOUNT RICHD. DOBBS SPAIGHT HU WILLIAMSON
<i>South Carolina</i>	{	J. RUTLEDGE CHARLES COTESWORTH PINCKNEY CHARLES PINCKNEY PIERCE BUTLER
<i>Georgia</i>	{	WILLIAM FEW ABR BALDWIN

ARTICLES
IN
ADDITION TO, AND AMENDMENT OF
THE
CONSITUTION OF THE UNITED STATES
OF AMERICA ¹

PROPOSED BY CONGRESS AND RATIFIED BY THE LEGISLATURES
OF THE SEVERAL STATES, PURSUANT TO THE FIFTH
ARTICLE OF THE CONSTITUTION

ARTICLE I

Conventions

131 Congress shall make no law respecting an establishment
of religion, or prohibiting the free exercise thereof; or
132 abridging the freedom of speech, or of the press; or the
133 right of the people peaceably to assemble, and to petition
the Government for a redress of grievances.

ARTICLE II

134 A well regulated militia, being necessary to the security
of a free State, the right of the people to keep and bear
arms, shall not be infringed.

¹ The first ten amendments were adopted in 1791.

ARTICLE XIII

No soldier shall, in time of peace be quartered in any 135 house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV

The right of the people to be secure in their persons, 136 houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or in- 137 dictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in the time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any Criminal Case to be a witness against himself, nor be deprived of life, liberty, or property, without due process 138 of law; nor shall private property be taken for public use, without just compensation.

ARTICLE VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury 139 of the State and district wherein the crime shall have been

committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses
140 against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

ARTICLE VII

141 In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

ARTICLE VIII

142 Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX

143 The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X

144 The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI¹

145 The Judicial power of the United States shall not be construed to extend to any suit in law or equity, com-

¹ Adopted in 1798.

menced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

ARTICLE XII ¹

The Electors shall meet in their respective States, and 146
vote by ballot for President and Vice President, one of
whom, at least, shall not be an inhabitant of the same State
with themselves; they shall name in their ballots the person
voted for as President, and in distinct ballots the person 147
voted for as Vice President, and they shall make distinct
lists of all persons voted for as President, and of all persons
voted for as Vice President, and of the number of
votes for each, which lists they shall sign and certify, and
transmit sealed to the seat of the government of the United
States, directed to the President of the Senate;—The President
of the Senate shall, in presence of the Senate and House
of Representatives, open all the certificates and the votes
shall then be counted;—The person having the greatest
number of votes for President, shall be the President, if
such number be a majority of the whole number of Electors
appointed; and if no person have such majority, then
from the persons having the highest numbers not exceeding
three on the list of those voted for as President, the House
of Representatives shall choose immediately, by ballot, the
President. But in choosing the President, the votes shall be 148
taken by States, the representation from each State having
one vote; a quorum for this purpose shall consist of a
member or members from two thirds of the States, and a
majority of all the States shall be necessary to a choice.
And if the House of Representatives shall not choose a
President whenever the right of choice shall devolve upon
them, before the fourth day of March next following, then
the Vice President shall act as President, as in the case of
the death or other constitutional disability of the President.

¹ Adopted in 1804.

The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

ARTICLE XIII ¹

149 SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV ²

SECTION 1. All persons born or naturalized in the
150 United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they
151 reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of
152 life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2. Representatives shall be apportioned among
153 the several States according to their respective numbers, counting the whole number of persons in each State, ex-

¹ Adopted in 1865.

² Adopted in 1868.

cluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced 154 in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any States, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States shall have engaged 155 in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two thirds of each House, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for 156 payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or 157 pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss of emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SECTION 5. The Congress shall have power to en- 158 force, by appropriate legislation, the provisions of this article.

ARTICLE XV ¹

159 SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XVI ²

160 The Congress shall have power to lay and collect taxes on incomes from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

ARTICLE XVII ²

161 The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualification's requisite for electors of the most numerous branch of the State legislatures.

162 When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of the State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

ARTICLE XVIII ³

SECTION 1. After one year from the ratification of this article the manufacture, sale or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

SECTION 2. The Congress and the several States have concurrent power to enforce this article by appropriate legislation.

¹ Adopted in 1870.

² Adopted in 1913.

³ Adopted in 1919.

APPENDIX B

LIST OF BOOKS TO WHICH REFERENCES ARE MADE

- Abbott, Lyman, "The Rights of Man"
- Beard, Charles A., "American Government and Politics"
- Bruère, Henry, "The New City Government"
- Bullock, Charles J., "Introduction to the Study of Economics"
- Carver, Thomas N., "Principles of Political Economy"
- Cleveland, F. H., and Schafer, Joseph, "Democracy in Reconstruction"
- Commons, John R., and Andrews, John B., "The Principles of Labor Legislation"
- Dole, Charles F., "The Spirit of Democracy"
- Ellwood, Charles A., "Sociology and Modern Social Problems"
- Fairlee, J. A., "Local Government in Counties, Towns, and Villages"
- Gettell, Raymond G., "Readings in Political Science"
- Goodnow, F. J., and Bates, F. G., "Municipal Government"
- Hinsdale, A. B., "The American Government"
- Holcombe, A. N., "State Government in the United States"
- Howe, Frederic C., "The Modern City and its Problems"
- Johnson, Allen, "Readings in American Constitutional History"
- Jones, Chester Lloyd, "Readings in Parties and Elections"
- Kaye, P. L., "Readings in Civil Government"
- Learned, H. B., "The President's Cabinet"
- Munro, W. B., "The Government of the United States"
- Reinsch, Paul S., "Readings in American State Government"
- Spargo, John, "Socialism"
- Thompson, Charles M., "Elementary Economics"
- Willoughby, W. W., "The American Constitutional System"
- Woodburn, J. A., "The American Republic"
- Zueblin, Charles, "American Municipal Progress"



INDEX

- Accidents, insurance against, 388-390
 - Agriculture, Department of,
 - its organization, 129
 - its Bureau of Public Roads, 334
 - as an agency of conservation, 350
 - its Forest Service, 353
 - its Bureau of Plant Industry, 427
 - its Bureau of Animal Industry, 427
 - its Bureau of Entomology, 427
 - its Bureau of Biological Survey, 427
 - its Weather Bureau, 427
 - its Bureau of Soils, 427
 - its Bureau of Crop Estimates, 428
 - its Office of Markets and Rural Organization, 428
 - its Bureau of Public Roads, 428
 - its Office of Experiment Stations, 428
 - its Division of Publications, 428
 - its State's Relation Service, 428; its county agents, 429
 - Alabama, 182
 - Alaska, 146, 371
 - Albany Plan of Union, 39
 - Aliens, 86, 328
 - Alliance, 38
 - Alms-giving, 400
 - Ambassadors, 120, 256, 257
 - Amendment of Constitutions, 34-36, 51
 - Americanism, 93
 - Americanization, 327
 - Anarchists, 326
 - Animal Industry, Bureau of, 129, 427
 - Anti-trust legislation, 344-347
 - Appropriations by Congress, 277-280
 - Arbitration,
 - of international disputes, 261
 - of labor disputes, 379
 - Arizona,
 - initiative and referendum in, 159
 - recall in, 170
 - local government in, 182
 - minimum wage law in, 386
 - Arkansas,
 - initiative and referendum in, 159
 - local government in, 182
 - minimum wage in, 386
 - Army, the regular, 249-251
 - Army War College, 370
 - Articles of Confederation, 40-44, 46, 302
 - Assemblage, freedom of, 87
 - Assessment, 286
 - Assessments, special, 269, 289
 - Assessors, 186, 193, 200
 - Attorney-General,
 - of the United States, 129
 - of a State, 166
 - Auditor,
 - of State, 165
 - of county, 185
 - Automobiles, 331
- B
- Bailey, L. H., quoted, 425, 434
 - Ballots, casting and counting of, 360
 - Banks,
 - National, 311
 - federal reserve, 312-314
 - farm loan, 429
 - Barter, 300
 - Bicameral System, 26-27
 - Bill of Rights, English, 79

Bills,
 passage of in Congress, 109-115
 in State legislatures, 153-155
 of credit, 303
 Biological Survey, Bureau of, 427
 Blacklists, 377
 Bonds, government, 292-293
 Book of Estimates, 277
 Boroughs, 204-206
 Bribery, 362-364
 Budget,
 national, 278-280
 State, 289
 city, 290
 Burnett Bill, 324
 By-laws, 199

C

Cabinet, the, 126-127
 Calendar, the House, 113
 California,
 municipal home rule in, 68
 initiative and referendum in, 159
 recall in, 170
 local government in, 182
 county home rule in, 186
 discovery of gold in, 306
 State Highway system of, 333
 and Chinese labor, 377
 minimum wage law in, 386
 investigation of old age pensions, 403
 the community center in, 422
 Campaign expenditures, 362, 363
 Campaign, presidential, 221-222
 Candidates, nomination of, 217-222
 Capitation tax, 269
 Case laws, 178
 Cases,
 criminal and civil, 133
 at law, 133
 at equity, 133
 Chancery courts, 177
 Charities, State Board of, 401
 Charity, 339-404
 Charters,
 colonial, 31
 of corporations, 65
 "Checks and balances," 24-29
 Child labor, 376, 387, 390
 Children's Bureau, 382
 Chinese, 323, 326
 Circuit Court (State), 174
 Circuit Court of Appeals (federal), 135
 Cities,
 home rule for, 66-67
 how they differ from villages, 204
 organization of, 206-212
 the price of good government in, 214
 budget system in, 290
 debts of, 295, 296-298
 growth of, 414-415
 functions of government of, 415
 problems of, 415-421
 Citizens, who are, 85-86
 Citizenship,
 rights of, 86-89
 duties of, 89
 and loyalty to party, 74
 City manager system, 211-212
 City planning, 420-421
 Civic center, 422
 Civil liberty,
 defined, 76
 growth of American, 77-82
 its preservation, 82
 and civil rights, 85-89
 Civil Service Commission, 126, 130
 Civil Service, federal executive, 125-131
 Clayton Trust Bill, 346
 Clerk,
 of courts, 184
 of townships, 193
 of the New England town, 199
 Coal, possible exhaustion of, 355
 Coast Guard Service, 320
 Coinage, 302, 305, 309, 314
 Collection of taxes, 276, 288
 Collective bargaining, 377-378

- Colorado,
 - equal suffrage in, 13
 - municipal home rule in, 68
 - initiative and referendum in, 159
 - recall in, 170
 - local government in, 182
 - minimum wage law in, 386
- Commerce,
 - power of Congress over, 47, 316
 - Department of, 129
 - foreign, 316-321
 - and the tariff, 317-319
 - regulations of shipping, 319
 - and the federal government, 320
 - interstate and intrastate defined, 330
 - and transportation, 331-337
 - intrastate, 334
 - Interstate Commerce Commission, 335-336
 - Transportation Act of 1920, 336
- Commerce, Department of, 129
- Commission System of city government, 208-211
- Commissioner of Education (federal) 371
- Committees,
 - in Congress, 110-115
 - in State legislatures, 154
 - the Committee on Rules, 114
 - the Committee of the Whole, 114
 - on Ways and Means, 274
 - the Conference Committee, 116
- Common Law, 234
- Common Schools, 369
- Commons, J. R., quoted, 386
- Community Center, the, 422
- Comptroller (State), 165
- Compulsory arbitration, 379-381
- Concurrent powers, 47
- Confederation, 38
- Confederation, Articles of, 40-43
- Congress of the Confederation, 40-44
- Congress (of the United States)
 - organization of, 97-103
 - representation in, 98-101
 - apportionment of Representatives, 101-102
 - election of members, 102-103
 - its powers, 103
 - the hope of the nation, 104-105
 - its assembling and adjournment, 108
 - numbering of, 108
 - sessions of, 109
 - at work, 108-116
 - and the President, 122
 - its power over Territories and Dependencies, 143
 - its power over commerce, 47, 316, 335
 - and the national defense, 248
 - its power to tax, 273
 - its power to borrow money, 293
 - its power over corporations, 341
- Connecticut,
 - its constitution, 32
 - in the convention of 1787, 100
- Conservation,
 - meaning of, 349
 - scope of, 349-350
 - of the soil, 350
 - through reclamation, 351-353
 - of forests, 353
 - of waterpower, 354
 - benefits of, 356-357
- Consolidation of State offices, 168
- Constables, 200, 253
- Constabulary, State, 252
- Constitutions,
 - the first, 32
 - how they obtain their authority, 33
 - outline of a constitution, 33-34
 - amendments of, 34-36, 51-52
 - the English constitution, 37
 - and the legislature, 155
 - and civil liberty, 80-82
- Constitution of the United States,
 - a creation of the people, 5

Constitution—*continued*
 our fundamental law, 32
 framed and ratified, 46-47
 distribution of powers under,
 47-51
 methods of amending, 51-52
 interstate relations under, 58-
 60
 bill of rights, 82
 citizenship under, 85, 88
 and the Supreme Court, 136-140
 Consuls, 120, 258
 Continental Congress, 40, 303
 Convention, National, 222
 Convention of 1787, 46, 98, 118,
 120
 Convention system of nominat-
 ing candidates, 221
 Conventions, constitutional, 35
 Coroner, the, 185
 Corporations,
 defined, 64
 two kinds of, 65
 in modern life, 340
 how created and controlled,
 340-341
 growth of trusts, 341-343
 their advantages and disadvan-
 tages, 343-344
 and the federal government,
 344-346
 and the States, 346-347
 the trust problem, 347-348
 Corporation tax, 268
 Corrupt practices at elections,
 361-363
 Council system, 206-208
 Counterfeiting, 409
 County Agents, 429
 County courts, 177
 County government,
 importance of, 181
 types of, 181-183
 governing body of, 183-184
 officials of, 184-186
 home rule, 186
 the citizen and his county, 186-
 187
 and the poor, 400
 and the farmer, 431

County-Township System, 189-
 192
 Court of Claims, 140
 Courtesy, senatorial, 104
 Courts, see *Judiciary*
 Crime,
 definition of, 406
 punishment of, 77, 407
 and the State government,
 407-409
 and the federal government,
 409-410
 prevention of, 410-412
 Crop Estimates, Bureau of, 129,
 428
 Currency of the United States,
 308-314. See also *Money*.
 Customs duties, 269, 277, 281

D

Debt, public,
 a necessity, 292
 how contracted, 292-293
 the national debt, 293-294
 State, 294
 of local governments, 295-297
 how paid, 297-298
 Declaration of Independence, 40,
 80
 Defective classes, 401
 Defense,
 an indispensable function, 248
 national, 248-252
 State, 252
 local, 252-253
 Deficit, of State governments, 295
 Delegate, territorial, 146
 Delinquency,
 in taxes, 288
 juvenile, 412
 Democracy,
 defined, 4
 the best form of government, 5
 dangers of, 6
 and the individual, 7
 growth of in America, 10-11
 representative, 17-22
 pure, 17

Democracy—*continued*
 and the Declaration of Inde-
 pendence, 80
 and the election of the Presi-
 dent, 119
 and the initiative and referen-
 dum, 159
 and education, 366
 and the community center, 422
 Democratic party, 71
 Demagogue, the, 6
 Departments, the federal execu-
 tive, 128-131
 Departments, the three,
 development of, 24-25
 independence of, 28
 disadvantages of, 29
 Dependencies,
 how they differ from terri-
 tories, 143
 on the American continent,
 144-148
 Indian reservations, 146
 Panama Canal strip, 147
 Porto Rico, 148
 Philippine Islands, 149-151
 Guam, 151
 Virgin Islands, 151
 Direct nominations, 220
 Direct legislation, 157-159
 Directorates, interlocking, 346
 District Attorney (county), 184
 District Attorney (federal), 140
 District Courts (federal), 134-
 135
 District Court (State), 174
 District of Columbia, 140, 144-
 146, 377, 386
 Draft, the, 250
 Drainage, 352
 Due process of law, 88, 241

E

Education,
 and democracy, 366
 controlled by the State, 366
 a local affair, 367
 the school district, 368
 school supervision, 368-369

 common schools and high
 schools, 369
 and the federal government,
 369-371
 needed reforms in, 371-372
 Education, Bureau of (federal),
 371
 Eighteenth Amendment, 397
 Eight-hour day, 386-387
 Election, second, 23
 Elections,
 usefulness of frequent, 359
 conducted by State authority,
 360
 registration, 360
 casting and counting of bal-
 lots, 361
 laws against corrupt practices,
 361-363
 bribery, 363-364
 Electorate, the, 10
 Electors, presidential, 118-119,
 220
 Entomology, Bureau of, 427
 Equality, before the law, 243
 Equity cases, 133, 177
 Excises, 269, 275
 Executive, the, 27-28
 Executive departments (federal),
 125-131; State, 163-166
 Exemptions in taxation, 288
 Expenditures, national, 111, 278,
 281
 Experiment Stations, Office of,
 428

F

Factory system, 375
 Farm Loan Banks, 429
 Farmer, the, and the government,
 427-433
 Farmers' Alliance, 433
 Farmers' associations, 433
 Farmers' Institutes, 433
 Federal Aid Roads Bill, 332
 Federal Board for Vocational
 Education, 370
 Federal government,
 defined, 38

Federal Government—*continued*
 preservation of, 59
 and the State, 54-60
 and civil rights, 88
 executive departments of, 125-131
 Federal Reserve Bank Notes, 310-313
 Federal Reserve Board, 130, 313
 Federal Reserve Notes, 310, (chart), 313
 Federal Trade Commission, 130, 345
 Federalist party, 71
 Fees, 269, 289
 Fence Viewers, 200
 Field drivers, 200
 Filibuster, the, 116
 Finance, public, 273, See *taxation*.
 Florida, 182
 Foreign and Domestic Commerce, Bureau of, 130, 320
 Foreigners, 322-325
 Forest Service, bureau of, 129, 353
 Forest Conservation, 353-354
 Franchise, the elective, 10
 Franchises, 268, 296, 416
 Franchise tax, 268
 Franklin, Benjamin, 40, 42, 100
 Free Trade, 317

G

Gas, a public utility, 416
 General Property tax, 268, 285
 Georgia,
 and the election of judges, 173
 local government in, 182, 183
 note
 its legislature in 1787, 98
 Gerrymandering, 102
 Gold, 301, 304-306, 308, 309, 314
 Goodnow, F. J., quoted, 417
 Government,
 defined, 3
 types of, 4
 democratic, 4-8

masters of, 10-14
 representative, 17-22
 constitutional, 31-36
 federal, 38-52, 55-59
 complexity of the American, 39
 three grades of, 63-64
 and political parties, 69
 characteristic features of
 American, 91-92
 spirit of American, 92-94
 functions of, 227-231
 and the individual, 228
 ideal schemes of, 236
 cost of, 266
 and public debt, 292
 and the farmer, 427-433
 Governor (State) 163-165
 Grand jury, 175
 Granges, 433
 Great Charter, the, 77
 Greece, government in ancient, 17
 Greenbacks, 309-311
 Gresham's law, 305
 Guam, 151

H

Habeas Corpus, 78, 242, 253
 Hamilton, Alexander,
 and the Constitution, 42, 51
 the advocate of broad construction, 71
 and public debt, 293, 297
 and child labor, 390
 Hare system of representation, 21
 Hawaii, 148
 Health, the public, 394-395
 Health Insurance, 391
 High Schools, 369
 Highways, 331-334
 Home Rule, municipal, 66-67
 "Hopper," the, in the House of Representatives, 112
 House of Representatives (national)
 its organization, 98-100
 national and federal principle in, 101

House of Representatives—*cont'd*
 apportionment of members,
 101-102
 election of members, 102
 at work, 110-115
 its strength in each State, 111
 (chart)
 and treaties, 261
 and revenue bills, 274
 Housing problem, 418-420
 Hundred moot, 18
 Hydro-electric energy, 355

I

Idaho,
 equal suffrage in, 13
 initiative and referendum in,
 159
 consolidation of State officers,
 168
 recall in, 170
 local government in, 182
 and Chinese laborers, 377
 Illinois,
 consolidation of State officers
 in, 168
 intermediate courts in, 176,
 note
 the county in, 183
 township government in, 190
 public opinion law in, 239
 community center in, 422
 Illiteracy, 371
 Immigration,
 extent of, 322
 restrictions upon, 323
 where the immigrants come
 from, 324 (chart)
 benefit of immigration, 325
 naturalization, 326
 Americanization, 327
 Immigration, Bureau of, 130, 325
 Impeachment, 103-104, 168
 Income tax, 268, 275, 289
 Independence, Declaration of,
 40, 80
 Indeterminate sentences, 411-412
 Indian Reservations, 146
 Indians, 86, 146

Indiana,
 township government in, 190
 community center in, 422
 Indifference, 6
 Individualists, 230
 Indoor relief, 400-401
 Industrial Court (Kansas) 381
 Inheritance tax, 268, 276, 289
 Initiative and referendum, 35
 (note) 157-159
 Injunction, writ of, 178-179
 Insurance against accident,
 388-390
 Insurance, health, 391
 Intemperance, 396-398
 Interior, Department of, 129
 Interstate Commerce Commis-
 sion, 130, 335-337
 Interstate Relations, 56-59
 Internal Revenue, Bureau of,
 276
 Internal Revenue taxes, 269
 International law,
 its development, 255
 rules of, 256-257
 sanction of, 257
 International relations, 255-262
 Intimidation at elections, 362
 Intrastate Commerce, 330, 332
 Iowa,
 amendment of constitution of,
 35
 township government in, 190
 Irrigation, 351-352

J

Japanese, 326
 Jay's treaty, 261
 Jefferson, Thomas,
 quoted, 36
 and the constitution, 51
 and the Democratic party, 71
 praises the New England town,
 201
 Jones Water-power Bill, 355
 Judiciary, the, 27
 Judiciary (federal),
 independence of, 133
 organization of, 134-136

Judiciary—*continued*
 the Supreme Court, 136-140
 Judiciary (State),
 selection of judges, 173
 several grades of State courts,
 173-177
 relation of to federal judiciary,
 177-178
 powers of, 178
 Jury system, 175-176
 Jury, trial by, 87, 175
 Justice,
 guaranteed in the bill of
 rights, 87
 the highest aim of government,
 240
 fundamentals of, 240-244
 and the poor, 244-246
 "fiat justitia," 246
 Justice, Department of, 129
 Justice of the Peace, 174, 193
 Juvenile delinquency, 412

K

Kansas,
 initiative and referendum in,
 159
 recall in, 170
 township government in, 190
 small claims court in, 245
 State Industrial Court in,
 380-381
 minimum wage law in, 386
 Kentucky, 182

L

Labor,
 Department of, 130
 Railway Labor Board, 337
 growth of labor organizations,
 374-376
 aims of labor, 376
 the State and the working-
 man, 376-377
 collective bargaining, 377
 settlement of labor disputes,
 378
 a difficult labor problem, 379-
 381

 federal government and the
 workingman, 381-382
 the laws and the working-
 man, 384-389
 the laborer is worthy of his
 hire, 385-386
 the length of the working-day,
 386-387
 unemployment, 387-388
 insurance against accidents,
 388-389
 child labor laws, 390
 health insurance, 391-392
 mothers' pensions, 402
 old age pensions, 403
 Labor, Department of, 129
 Labor Statistics, Bureau of, 382
 Laws,
 what a law is, 233
 different kinds of laws, 233
 characteristic features of a
 law, 234
 public opinion and, 235-237
 obedience to, 237
 Laws and the workingman, 384-
 390
 League, 38
 League of Nations, 262, 387
 Legal tender, 303
 Legislature, the, 25-27
 Legislature (State),
 its control of municipalities,
 65, 155
 general features of, 153
 passage of bills in, 153-155
 importance of laws of, 155-156
 and the State constitution,
 156
 criticism of, 157
 Liberty, of the citizen, 242
 Library of Congress, 130
 License taxes, 269
 Lieutenant-Governor, 165
 Life, safeguarding human, 241
 Literacy test, 325
 Local government, 62-68, 431.
 See also *County, Township,*
 etc.
 Lockout, the, 378

- Louisiana,
 initiative and referendum, 159
 recall in, 170
 local government in, 182
 forbids laws fixing wages of
 labor, 377
- M
- Madison, James, quoted, 274
 Manager system, 211-212
 Mandamus, 179
 Maine, 159, 397
 Majority rule, 5
 Markets and Rural Organiza-
 tion, Bureau of, 428
 Martial law, 253
 Marshal (federal), 140
 Marshall, John, quoted, 138
 Maryland,
 and the District of Columbia,
 144
 referendum in, 159
 local government in, 182
 its budget system, 290
 Massachusetts,
 initiative and referendum in,
 159
 consolidation of State offices
 in, 168
 and public education, 367
 minimum wage law in, 386
 Mothers' pensions in, 402
 Metals, precious, 301
 Michigan,
 amendment of constitution of,
 35
 municipal home rule in, 68
 initiative and referendum in,
 159
 recall in, 170
 the county in, 183
 township government in, 190,
 191
 drainage of swamp lands in,
 353
 regulation of child labor in,
 390
 Military Academy, 128, 370
 Militia, 250, 252
 Mill, John Stuart, quoted, 229
 Minimum wage law, 386
 Ministers, 257, 258
 Minnesota,
 municipal home rule in, 68
 township government in, 190
 exemption of taxation, 288
 minimum wage law in, 386
 Minority, representation of, 20
 Mississippi, 182
 Missouri,
 municipal home rule in, 68
 initiative and referendum in,
 159
 intermediate courts in, 176,
 (note)
 township government in, 190
 forbids intimidation at elec-
 tions, 362
 Monarchy, 4
 Money,
 a commodity, 300
 the precious metals, 301
 coinage of, 302
 paper, 302, 304
 representative, 304
 Gresham's law, 304-306
 different kinds of, 308
 amount of, 308, 310 (chart)
 essential facts of, 314
 Monopoly, 342, 347
 Montana, 159, 182
 Morality, public, 396
 Mothers' Pensions, 402
 Municipalities,
 municipal corporations, 65
 necessity for, 203
 two classes of, 204
 organization of, 206-212
 taxation in, 284
 problems of, 414-422
 Municipal ownership, 416-418
 Munro, W. B., quoted, 30
- N
- National Banks, 311
 National Guard, 250
 National Committee (political
 parties) 218
 National Convention, 222

- National Parks, 146
 - Naturalization, 86, 326
 - Naturalization, Bureau, 130, 327
 - Naval Academy, 129, 370
 - Navy Department, 129
 - Navy, the American, 251
 - Nebraska,
 - initiative and referendum in, 159
 - township government in, 190
 - consolidation of State offices in, 168
 - New England,
 - democracy in, 19
 - the county in, 182
 - town government in, 196-201
 - money in, 301
 - decline of rural population in, 425
 - New England Confederation, 39
 - New Jersey,
 - in the convention of 1787, 98
 - Surrogate's Court in, 177
 - the county in, 183
 - township government in, 190
 - its incorporation law, 342
 - forbids intimidation at elections, 362
 - investigates old age pensions, 403
 - New Mexico, 159, 182
 - Nevada, 159, 170
 - New York (State),
 - its judicial system, 176 (note)
 - the county in, 183
 - township government in, 189
 - trade unions in, 376
 - control of charities in, 402
 - decline of rural population in, 425
 - New York City, 277, 284, 290, 296, 328
 - Nomination of candidates, 217-222
 - Normal Schools, 369
 - North Carolina, 47, 182
 - North Dakota,
 - initiative and referendum, 159
 - township government in, 190
 - and Chinese labor, 377
 - minimum wage law in, 386
- O
- Ohio,
 - municipal home rule, in 68
 - initiative and referendum in, 159
 - township government in, 190
 - budgets in cities of, 290
 - its anti-trust law, 346-347
 - forbids intimidation at elections, 362
 - regulation of child labor, 390
 - investigation of health insurance in, 392
 - Oklahoma,
 - municipal home rule in, 68
 - initiative and referendum in, 159
 - township government in, 190
 - Old-Age Pensions, 402
 - Ordinances, 207
 - Ordinary, the, 183 (note)
 - Oregon,
 - municipal home rule in, 68
 - initiative and referendum in, 159
 - recall in, 170
 - local government in, 182
 - minimum wage law in, 386
 - its policy in respect to crime, 411
 - Organized charity, 403
 - Orphan's court, 177
 - Outdoor relief, 400-401
 - Overseers of the Poor, 186, 193, 200
- P
- Panama Canal Strip, 147
 - Paper money, 302
 - Pardon, power of, 120, 164
 - Parliament, English,
 - the first, 18
 - representation in, 19
 - a law-making body, 25
 - and the English constitution, 37

- Parliament, English—*continued*
 and the English Bill of Rights, 79-80
 and cabinet government, 131-132
 and bribery, 363
 and trade unions, 375
- Parties, political,
 party defined, 69
 origin of in the United States, 70
 of to-day, 71-73
 "third," 73
 and the individual, 73-74
 organizations of, 217-222
- Peace treaties, 262
- Pensions, 399, 402
- Petit Jury, 175
- Petition of Right, 78
- Petition, right of, 80, 87, 158
- Pennsylvania,
 its legislature in 1787, 98
 intermediate courts in, 176 (note)
 township government in, 190
 State constabulary in, 252
 highway system in, 331
 its normal school system, 369
 employers, liability in, 389
- Philippine Islands, 149-151, 309 (note)
- Plant Industry, Bureau of, 129, 427
- Plurality, 23
- Policemen, 253, 380
- Police power, 384, 393
- Poll tax, 269, 289
- Pools, 341
- Poor, helping the, 399-404
- Population, of cities, 414; of rural communities, 425
- Porto Rico, 148
- Posse comitatus*, 252
- Post-Office, Department of, 129
- Powers, governmental,
 of the people, 4
 separation of, 24
 of the Confederation, 41
 distribution of, 47-49
 implied and resulting, 50
 of the State, 54
 division of power of the State, 62-63
 of local government, 62-67
 of Congress, 103
 of State executive, 62-166
 of State judiciary, 178
 and public opinion, 235-237
 in respect to coinage, 302
 police power of, 384, 393
- President of the United States,
 election of, 118-119, 222
 powers and duties of, 103, 120
 his share in law-making, 120-122
 succession to the Presidency, 122
 as a political personality, 123
 and the power of appointment, 103, 125
 his Cabinet, 126-127
 his salary, 131
 Commander-in-Chief, 250
 head of foreign affairs, 259
- Press, freedom of, 87
- Primaries, 218
- Probate courts, 177
- Progressive taxation, 270
- Prohibition, 396-398
- Property, 86, 242-243
- Property tax, 268
- Proportional representation, 21
- Protection, 317-318
- Public Defender, 188
- Public Health, 394-395
- Public Health Service (federal), 128, 395
- Public morality, 396
- Public opinion, 235
- Public Roads, Bureau of, 129, 334, 428
- Public Safety, 395
- Public Utilities, 415-418
- Public Utility Commissions, 334
- R
- Railroad Commissions (State), 334
- Railroads, 334-337
- Railway Labor Board, 337, 382

Rates, charged by railroads, 335-336
 Ratio of representation, 102
 Recall, the, 170
 Reclamation of lands, 351-353
 Reclamation Service, bureau, 129, 351
 Recorder of deeds, 185
 Recreation, municipal, 421
 Referendum, initiative and, 35 (note), 157-159
 Registration, 360
 Register of deeds, 185
 Religious freedom, 86
 Representation,
 principles of, 19-20
 of the minority, 20
 in Congress, 98
 ratio of, 102
 Representative government, 17-22, 359
 Republic, 4
 Republican party, 71
 Revenues, national, 275-277, 281
 Rhode Island,
 its constitution, 32
 not represented in the Convention of 1787, 46
 and religious freedom, 197
 Roads, 331, 334-336
 Roosevelt, Theodore, quoted, 358, 426
 Rural America, 425-434
 Rural community units, 432
 Rural life, conditions of, 426

S

Safety, the public, 395-396
 Salaries of federal officials, 131
 Samoa, 151
 School district, 368
 School supervision, 368
 Secretary of State,
 of the United States, 127, 259
 of a State, 165
 Secretary of the Treasury, 128, 278
 Secretary of War, 128, 250-251
 Senate, the, 26
 Senate of the United States,

 national and federal principle in, 100
 election of members of, 102-103
 and the treaty-making power, 104
 senatorial courtesy, 104
 at work, 115-116
 confirms appointments, 125
 and treaties, 260
 and revenue bills, 274
 Sheriff, the, 184, 252
 Sherman Anti-Trust Act, 344
 Shipping, foreign, 319
 Shipping Board, 130, 320
 Shire moot, the, 18
 Short Ballot, the, 365
 Silver, 301, 304-306, 308, 309, 310 (chart), 314
 Single tax, 270
 Sinking fund, 297
 Slums, 420, 431
 Smith, Adam, his canons of taxation, 267
 Smith-Hughes Act (vocational training), 370
 Smithsonian Institution, 130
 Socialism, 230
 Socialist party, 72
 Soil, conservation of, 350
 Soils, Bureau of, 427
 South Carolina, 182
 South Dakota, 159, 190
 Speaker, of the House of Representatives, 110
 Speech, freedom of, 87
 Spirit, the American, 93
 Stamp Act Congress, 39
 Standard Oil Company, 344
 State, Department of, 128
 State (Commonwealth),
 regulates suffrage, 12
 the Constitution of a, 32-33
 powers of, 48-50, 54-56
 interstate relations, 59
 and the federal government, 59-60
 division of powers of, 62-63
 and the municipality, 65-67
 civil rights of State citizenship, 86-88

State—*continued*

legislatures of, 153-159
 executive department of, 162-170
 its system of taxation, 283-289
 and public debt, 294-295
 cannot coin money, 302
 its power over corporations, 341
 its control of elections, 360
 and intrastate commerce, 330-332
 public education controlled by, 366-367
 controls labor matters, 376-377
 and the public health, 394
 and their care of the poor, 400
 crime dealt with by, 407
 and the farmer, 430
 States Relations Service, 428
 Street railways, 416-418
 Strike, the, 179, 378-381
 Subsidiary Coinage, 309
 Suffrage, 12-13
 Sumner, Charles, quoted, 243
 Superintendent of Schools,
 of State, 166, 368
 of county, 185
 Superior Court (State), 174
 Supervisor (Township), 189, 193
 Supreme Court (of the United States),
 decides between the State and the federal government, 56
 judges of, appointed by the President, 120, 134
 organization of, 134-136
 and the Constitution, 136-138
 and the people, 139
 Supreme Court (State), 176
 Sumptuary laws, 237
 Surrogate's Court, 177
 Surveyor, county, 185
 Swamp-lands, 353

T

Taft, ex-President, quoted, 245

Tariff, the, 275, 317-319
 Tariff Commission, 130, 319
 Taxation,
 authorized by the legislature, 26
 and the Great Charter, 77
 defined, 266
 principles of, 267
 different kinds of taxes, 267-269
 proposed reforms in, 269-270
 the power of Congress to tax, 273
 federal system of, 274-276
 taxing power of the State, 283
 authority for State and local taxes, 283
 State system of, 285-289
 assessment, 286
 equalization, 287
 collection, 288
 delinquency, 288
 exemption, 288
 Taxes, different kinds of, 267-269
 Teachers, compensation of, 371-372
 Tennessee, 182
 Territories,
 how governed, 143
 Alaska, 146
 Hawaii, 148
 treatment of, 151
 Texas, 176 (note), 182
 Tobacco as money, 300
 Town,
 the New England, 196-201
 the town-meeting, 198-199
 officers, 199
 as a factor in civic life, 200
 outside of New England, 201
 Towns (municipalities), 204-206
 Township, the,
 States having, 189-191
 powers of, 192
 organization of, 193
 a school for general citizenship, 193
 and the farmer, 431

Trade Unions, 374-376
 Transportation,
 interstate and intrastate, 330
 highways, 331-333
 railroads, 334-337
 Interstate Commerce Commis-
 sion, 335
 problems of urban, 415-416
 Transportation Act of 1920, 336
 Treason, 410
 Treasurer (State), 166
 Treasurer (county), 185
 Treasury, Department of, 128,
 278
 Treaties, 104, 120, 121, 259-262
 Trusts, 341-348
 Tyranny, 7

U

Unemployment, 387-388
 Unions, political, 38
 United States,
 a democracy, 5
 a representative democracy,
 18-19
 a federal state, 39
 the federal and national prin-
 ciple in, 100
 United States notes, 309-311,
 314
 Universities, 369, 431
 Urban America, 414-423
 Urban life, contrasted with
 rural, 426
 Utah,
 equal suffrage in, 13
 initiative and referendum in,
 159
 local government in, 182
 minimum wage law in, 386

V

Veto power, the
 of the President, 121
 of the governor, 165
 Vice President, 115, 119, 122,
 222
 Villages, 204-206
 Virgin Islands, 151

Virginia,
 representative government in,
 18
 in the Convention of 1787, 98
 and the District of Columbia,
 144
 county government in, 181
 its early currency, 300
 Vocational Education, 370-371
 Volstead Act, 397
 Voters, qualifications of, 11-12
 duties of, 13-14
 Voting, method of, 361

W

Wages of Workingmen, 385-386
 War,
 declared by Congress, 249
 and the League of Nations, 263
 War, Department of, 128, 250
 War Risk Bureau, 399
 War Risk Insurance, 399
 Washington, D. C., 144-146
 Washington, George, quoted, 28,
 42
 Washington (State),
 municipal home rule in, 68
 initiative and referendum in,
 159
 recall in, 170
 forbids intimidation at elec-
 tions, 362
 minimum wage law in, 386
 Water as a public utility, 461
 Water-power, conservation of,
 354-356
 Ways and Means, committee on,
 274
 Weather Bureau, 129, 427
 Webster, Daniel, quoted, 246
 West Virginia, 182
 Williams, Roger, 197
 Wisconsin,
 the county in, 183
 township government in, 190
 minimum wage law in, 386
 investigates old-age pensions,
 403
 Woman suffrage, 13
 Wyoming, 182, 377

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